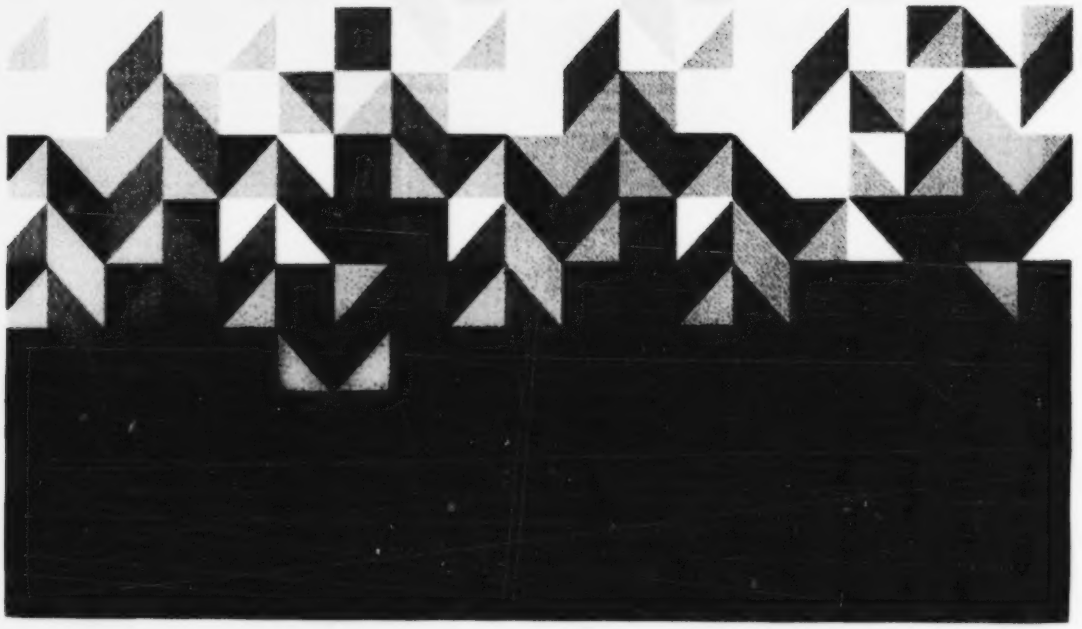
VICTIMS' SERVICES

VICTIMS' SERVICES DIVISION DEPARTMENT OF JUSTICE NOVA SCOTIA

ACTIVITY REPORT APRIL 1, 1997 - MARCH 31, 1998



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Appendix A Victims' Services Division, Organizational Chart

Background

Recognition of victims of crime as an entity within the criminal justice system is a relatively new phenomena in Canada as well as in Nova Scotia. It was only in 1969 that the first criminal justice program directed specifically toward victims of crime, the Alberta Criminal Injuries Compensation Program, was established in this country. Although similar compensation programs came into being in each province and territory throughout the 1970's and 1980's, it was not until 1984 that Manitoba became the first province to implement a general victim assistance program to provide support and information to victims as they proceeded through the criminal justice process. During the 1980's and early 1990's other jurisdictions followed Manitoba's lead so that today there is a victims' services component within the criminal justice system in each province and territory within Canada.

In Nova Scotia, the first legislation identifying victims of crime as a specific population was the *Compensation for Victims' of Crime Act* which was passed in 1975 and proclaimed in force in 1981. In 1990 the *Victims' Rights and Services Act* established basic rights for victims of crime in Nova Scotia and provided for the creation of the Victims' Assistance Fund and the position of Director of Victims' Services. In 1992, the *Victims' Rights and Services Act* was amended to incorporate criminal injuries compensation. The *Act* provides the legislative authority for the Victims' Services Division and each of its programs.

Through the creation of the Victims' Services Division, the Nova Scotia Department of Justice acknowledged its' responsibility to ensure that victims of crime have access to standardized core services within the criminal justice system in Nova Scotia. The Department also recognizes, however, that victims have many and diverse needs which no single source can meet. There are now, and should continue to be, many deliverers of services to victims. The services provided by the Victims' Services Division are only one component of the array of services that are available to victims of crime within this province. The spectrum of services also includes police victim assistance programs, community agencies and volunteer victims' organizations.

It is clear that it would be neither appropriate nor desirable for any individual organization or agency to attempt to provide all the services required by victims of crime. It is only by working together rather than in isolation that we can use our combined resources to the best effect to assist victims of crime. It is our belief that information sharing is essential if we are to better coordinate our efforts, avoid duplication and further increase awareness of the rights and services available to victims.

The purpose of this report, therefore, is to update our partners and stakeholders in the criminal justice system, Government and the community on the activities of the Victims' Services Division. As Victims' Services is a new component of the criminal justice system, these activity reports are also intended to provide a historical overview as services evolve and information for research purposes.

OVERVIEW OF THE VICTIMS' SERVICES DIVISION

Victims do not ask to be a part of the criminal justice system...yet their perspective is not always heard; theirs is a voice that must be listened to and respected. [1]

Victims' Services Division assists victims of crime to have a voice within the criminal justice system and provides an avenue within the system for victims to have their needs and concerns addressed. The Division was established in 1989 as a new component of the Nova Scotia Department of Justice with the overall mandate **'to reduce the effects of crime'** on the people of Nova Scotia.

The Division is independent of other line functions (i.e. Police, Crown, Courts or Corrections) within the criminal justice system. It has a direct service role in relation to the development and delivery of comprehensive criminal justice-based services and also has a coordinating role in relation to victims' services generally. In addition, the Division acts as a central source of information and advice to Government on issues affecting victims of crime.

The positioning of the Victims' Services Division within the Department of Justice as a separate and independent component was one of the issues specifically addressed in the comprehensive evaluation of the Division completed by external consultants in 1996.

On balance the present situation of establishing the VSD within the Department of Justice, but independent of line functions (Crown or Police), is the most appropriate option for the division. Many Crown raised the need to safeguard victims' files from the scrutiny of the Defence. They were concerned that should the VSD fall under the Public Prosecution's management, victims' files would be open upon request leading to a re-victimization situation. Crown also indicated that the independence of the Division helps clarify the role of the Crown and victim; i.e. that the Crown does not act as the victim's lawyer and that the Crown's interests are not always the same as the victim's.

Arguments against establishing the Victims' Services Division as part of a police-based service arose in discussions both with Crown and community. Specific concerns cited included possible reluctance on the part of victims (women in particular)to approach a police-based service. An independent structure was cited as desirable in the case that complaints were to be laid either against police or crown.

Some interviewed did query whether the VSD is really independent of the criminal justice system. We were told that the VSD cannot act as an advocate for victims in cases where there is a potential law suit against the government as is the case with Westray. These same individuals however recognized the need for the VSD to have strong ties with the criminal justice system to ensure ready access to precise information. Provision of court-based and case-related information is recognized in victim research as one of the most important functions for victim services and is not readily available to community-based advocacy groups. ... ...

The evaluation supports the structure of the VSD as originally established – i.e. regionally structured and provincially managed. This structure permits the establishment of standards across the province while at the same time enabling the individual Regional offices to respond to the particular needs of their regions. [2]

The Victims' Services Division Provincial Office is located in **Halifax** within the Department of Justice Headquarters. Regional Offices are located in **Dartmouth, Kentville, New Glasgow** and **Sydney.** All Regional Offices are located within or adjacent to a courthouse facility and have specialized child-friendly waiting areas for children who are waiting to testify in court. Each office outside of the Halifax region has a toll-free 1-800 number to ensure province-wide accessibility to all programs.

In 1997/98 the Division offered the following core province-wide programs:

- **Regional Victims' Services Program** - provides information, advocacy and support for victims of crime within the criminal justice system.

- **Child Victim/Witness Program** - provides a specialized service to prepare and support child victims or witnesses who testify in criminal court proceedings.

- **Victim Impact Statement Program** - offers victims of crime the opportunity to provide a statement to the court which outlines the financial, physical, and psychological/emotional impact of the crime.

- **Criminal Injuries Compensation** - provides financial compensation to victims of violent crimes committed in Nova Scotia for specific costs related to personal injury. In most cases applications must be made ***within one year of the crime***.

All programs, with the exception of the Criminal Injuries Compensation, are operated through the Regional Victims' Services Offices. Regional staff inform victims of their right to compensation and assist them with the application process.

In 1997/98, the Victims' Services Division had a total of 19 full-time positions staffing the head office and 4 Regional Offices. In January, 1998, the staff was increased to 20 when an additional Victims' Services Officer position was added to the Dartmouth Regional Office.

In addition, a roster of approximately 30 specially trained Victims' Services Support Workers work on a fee-for-service basis to provide court preparation and support in local communities for children who are called to testify in criminal proceedings. The organizational chart for the Division is attached as **Appendix A** to this report.

Funding for the Division is derived from Consolidated Revenue as well as the Victims' Assistance Fund. The total budget from both sources for the 1997/98 fiscal year was $1,853,900 ($1,164,100 from Consolidated Revenue and $689,800 from the Victims' Assistance Fund). The budget includes operational expenses for all of the Division's programs as well as Criminal Injury Compensation awards.

Revenue in the Victims' Assistance Fund is generated from a victim fine surcharge on both *Criminal Code* and Provincial statute offences. The last section of this report details income and expenditures in relation to the Victims' Assistance Fund.

HIGHLIGHTS OF 1997/98 FISCAL YEAR

- Committed additional **$290,002** from Victims' Assistance Fund for operation of the Framework For Action Against Family Violence Victim Support Projects.

- Hired an additional Victims' Services Officer in the Dartmouth Regional Victims' Services Office in January 1998.

- Implemented an alternative model of service delivery within the Regional Victims' Services Offices for the Child Victim/Witness Program; Victims' Services Support Workers work on a fee-for-service basis to deliver the children's program and to enhance staffing in the Regional Victims' Services Offices.

- Developed and implemented a computerized case management system for the Criminal Injuries Compensation Program.

- Developed a computerized case management system (which will be implemented in 1998/99) for the Regional Victims' Services Offices.

- Assisted in the development and delivery of a comprehensive training package for all RCMP Victim Assistance Volunteers.

- Regional Victims' Services Program served **3670** new clients; opened **2861** new case files for clients requiring ongoing services; court orientation sessions were provided for **1069** clients to prepare them to testify in criminal court.

- Criminal Injuries Compensation received **470** applications; granted **287** awards totaling **$707,576.74** in projected payouts; award expenditures for '97/98 fiscal year were **$486,927.**

- Developed and implemented within Victims' Services Regional Offices a case tracking and monitoring system for cases involving spousal/intimate partner assault in accordance with the Department's Framework For Action Against Family Violence

- Regional Victims' Services Offices dealt with **1,644** cases involving spousal/intimate partner violence which represents **41.9%** of all cases dealt with by the Regional Offices involving violent offences

- Criminal Injuries Compensation Program received **129** or **27.4%** of all applications in which the accused was identified as a spouse/intimate partner; in **6** of 14 murder cases dealt with by the Program the victim was a spouse/intimate partner of the accused (5 were a wife or ex-girlfriend; 1 was a husband)

- Child Victim Witness Program received **359** referrals in the past year; service was predominantly offered by Victims' Services Support Workers under the supervision of Victims' Services Officers

- **301** Victim Impact Statements were filed with the courts by victims of crime through the Regional Victims' Services Offices

- Victim Fine Surcharge revenue collected in 97/98 was **$650,404.55**

NEW INITIATIVES AND GOALS FOR 1998/99

- Implement computerized case management and statistical record keeping program for the Regional Victims' Services Program.

- Develop joint protocols to improve coordination with other victim-serving organizations.

- Improve accessibility for victims of crime to Division services by increasing the presence of Victims' Services staff in court facilities.

- Undertake responsibility, in conjunction with the Department of Community Services, for administration and review of the victim support projects under the Framework for Action Against Family Violence.

- Research and develop recommendations for legal representation for complainants in sexual offence proceedings regarding production of their private therapeutic records.

- Develop, in partnership with MT&T and Bryony Transition House, a pilot program for provision of emergency cellular telephones for high-risk victims of stalking or intimate partner abuse.

REGIONAL VICTIMS' SERVICES PROGRAM

The Service Delivery Model

Regional Victims' Services was established in 1992 following a research study into the needs of victims of crime. In his 1991 report, Victims' Needs and Service in Nova Scotia, Dr. Christopher Murphy stated that, *"The province of Nova Scotia, through Victims' Services Division . . . , has a formal responsibility to deliver services and protect victims' rights throughout the province."* [3]

Following consideration of the various models of service delivery, Dr. Murphy recommended adopting a system-based approach. The service was to be located within the Department of Justice, but independent of line-functions (i.e., Courts, Police, Prosecution Services, Corrections), thus enabling staff to take on an advocacy role within the system. In addition, the program would have strong links with the community to interface with other services to victims of crime.

At the time a system-based model of delivery was considered somewhat of a hybrid. Existing models were usually police-based, Crown/court or community-based. Subsequently, the model has become well recognized. In a recent report on services to victims, Balancing The Scales: The State of Victims' Rights in Canada produced by the Canadian Resource Centre of Victims of Crime (1998), four types of delivery models were identified.

I. *Police based victim services: usually located in police detachments/departments, these types of programs are designed to help the victims as soon as possible after their contact with the justice system begins. The types of services that police based programs may include are: death notification, information about the justice system, information about the investigation, assistance with victim impact statements and criminal injuries compensation applications, referrals, etc.*

II. *Crown/court based victim/witness services - usually located in courthouses, and work very closely with the Crown's office. The emphasis is on court preparation. The types of services offered may be: information about court process, tours of courthouse, emotional support throughout the court process, facilitate meeting with Crown, work with child witnesses/victims, etc. Obviously, victims usually only have contact with the Crown/court based programs if the police identify and arrest a suspect.*

III. *Community based victim services - these types of programs are usually not government operated,but may benefit from government funding. These programs also usually specialize in the types of victims they deal with, i.e. sexual assault centres, domestic violence transition homes, etc.*

IV. System based services - this is a relatively new approach to providing assistance to victims in that it is not "police" or "crown" based but "system" based. This means that the victim only has to go to one place to get the types of services they can access from both police and crown based programs. The service based model has been adopted by both PEI and Nova Scotia. [4]

In the discussion on the different models of victim services the report concluded:

Probably the model victim service is one that can assist different types of victims through the system. For example, what domestic violence victims need is different from what the parents of a murdered child need. The model service is also one that can provide assistance and information on all the rights that victims have such as: compensation programs, what the provincial act says, what protections the Criminal Code offers young witnesses and sexual assault victims, what services are available in the community, etc. The service should also help victims communicate with both police and Crown. [5]

Establishing the Regional Victims' Services Program

The first Victims' Services Regional offices were opened in 1992, in Halifax and New Glasgow, one urban and one rural service to provide service to victims of crime in the Halifax County and Central Regions. The regions were developed to coincide with the Crown regions, i.e. Halifax, Central, Western and Cape Breton. In 1993, the service became province-wide when offices were established in the Western and Cape Breton regions.

The Regional Victims' Services Program provides core services designed primarily to assist victims to deal with the criminal justice process: general information about the criminal justice system; specific information about their case; tracking of court decisions connected to the case; liaison with Police, Courts, Crown Attorney and Corrections; referrals to other services; assistance in applying for Criminal Injuries Compensation; preparing and submitting Victim Impact Statements; and general advocacy within the criminal justice system. Throughout the process emotional support and short term counselling provide the foundation of service delivery.

Clients/Caseload Statistics

As shown on **Chart 1**, the number of clients steadily increased during the first three years of the service, increased dramatically during 1996/97 and leveled out over the last fiscal year. An analysis of the changes over the past five years suggests that between 1993 and 1996 referrals to the program were increasing as a result of the services becoming established within the criminal justice system and thus better known. The introduction of pro-active policies and procedures under the Department of Justice Framework for Action Against Family Violence in 1996 resulted in a significant increase in the number of new clients referred to Regional Victims' Service. Although the number of new clients has plateaued in the past year, it is notable that there has been a significant rise in the number of new cases; that is, more clients require ongoing service rather than short term contact. This would indicate that while the overall number of new clients is minimally declining, clients are generally being referred earlier in the criminal justice process and require more service.

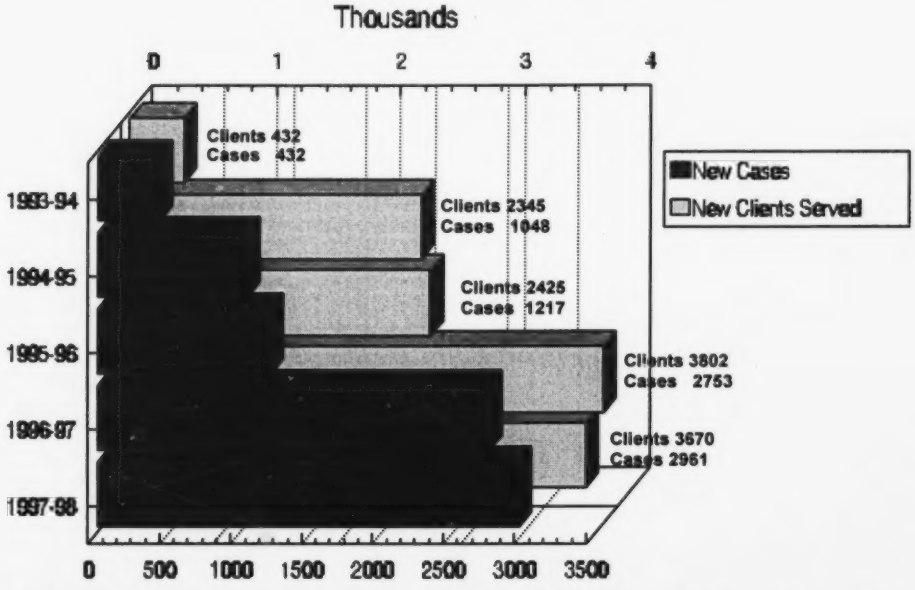
During the early stage in the establishment of the program, staff actively sought referrals to the program. However, as the services became known and valued within the criminal justice system and in the community referrals came from the Public Prosecution Service, policing agencies, victim assistance programs and also directly from victims of crime. Today referral sources vary between offices but the majority are made by Crown Attorneys, police and through police-based victim assistance programs.

The number of new clients served has stabilized since 1996/1997 when there was a 57% rise in referrals primarily due to the pro-arrest, pro-prosecution, and pro-referral policies contained in the Framework for Action Against Family Violence. The number of new clients has remained relatively stable since that time. In fact, a slight decrease in the number of new clients requiring services was noted last year - down from 3,802 in 1996/97 to 3, 670 in 1997/98.

The vast majority of clients are 'primary victims' (that is the actual victim of crime or immediate family in a homicide case), but we also serve secondary victims, i.e. relatives and witnesses. In some instances where the victim is already receiving service from another agency, our office will provide services indirectly to the victims through the agency staff who have already established an ongoing relationship with the client or victim.

CHART 1

REGIONAL VICTIMS' SERVICES PROGRAM
Clients/Caseload Statistics
1993/94 - 1997/98*



- New cases are opened only after three contacts with a client or if a client indicates the need for service over an extended period.
- New clients include primary and secondary victims, relatives, witnesses and agencies. Between April 1, 1997 - March 31, 1998, a total of 3,382 primary victims were served.

Impact of the Framework for Action Against Family Violence

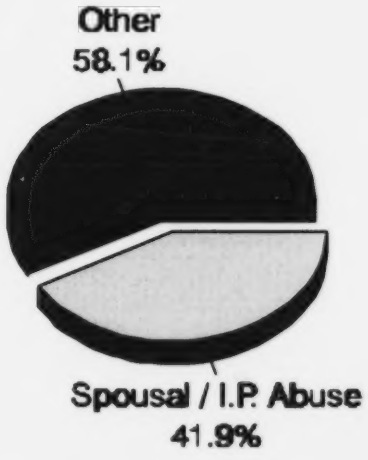
The Department of Justice established the Framework for Action Against Family Violence in 1995. The Framework introduced mandatory training on family violence for all justice workers and implemented a pro-arrest, pro-prosecution policy in dealing with spousal/partner abuse. All divisions within the criminal justice system developed specific policies to support the Framework.
Police agencies were directed to proactively refer victims to a service for victims and Crown Attorneys to make referrals directly to Regional Victims' Services. The policy of Regional Victims Services in relation to the Framework is to offer service to all victims of spousal/intimate partner abuse within 48 hrs of the referral and, in addition to the services generally provided to all victims, to provide information on the cycle of violence, ensure safety plans have been considered and to offer assistance in coordination with other government or community agencies.

The Framework also required that cases of spousal/intimate partner abuse be tracked and monitored. Between June 1996 (when case tracking began) and March 1998 Regional Victims' Services dealt with 4409 cases of spousal/partner abuse. During the last fiscal year, April 1, 1997 - March 31, 1998, these cases made up approximately 42% of all the cases involving violent crime dealt with by regional offices.

CHART 2

Spousal / Intimate Partner Abuse as Percentage of Violent Offences

April 1, 1997 - March 31, 1998

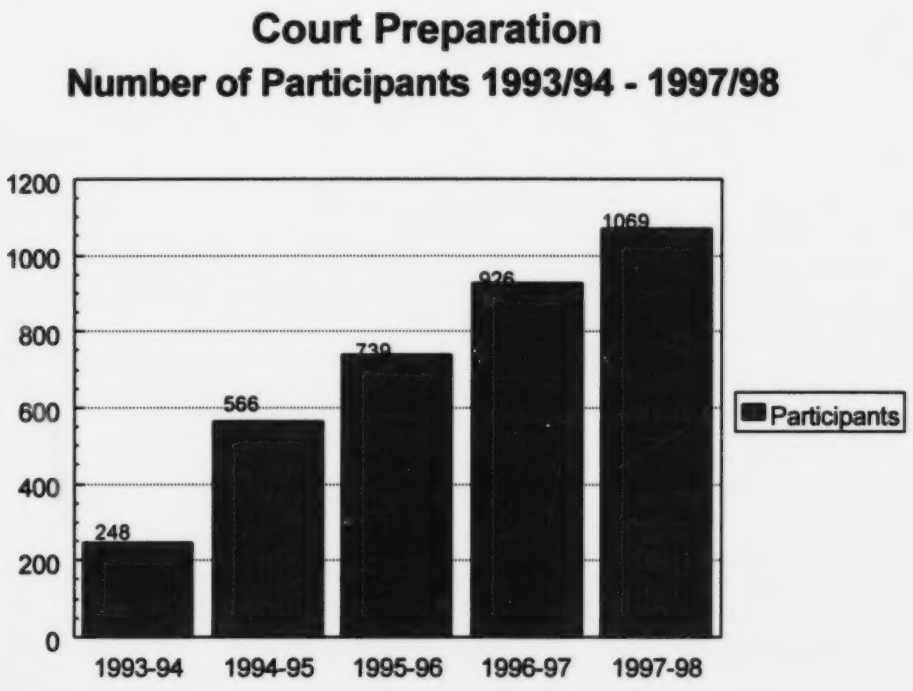


(Violent crime including offences against children but not including Peace Bonds = 2280
Number of Spousal/Intimate Partner Offences = 1644)

Court Preparation

Non-evidentiary court preparation is offered to all clients. In the metro area, and in other busy courts, small group sessions are scheduled on a regular monthly basis while in rural areas and in the less busy courts, the demand for this service is met on an individual basis. The purpose of the session, which lasts approximately one hour, is to help the victim to become familiar with the courtroom and court procedures; to understand the role of the Judge, Crown, defence attorney and other court workers; and to assist witnesses to give testimony in criminal proceedings. As can be seen in **Chart 3** the demand for this service has steadily increased over the years. Evaluations completed at the end of each session indicate client satisfaction with this service is high. Victims report increased confidence because they know what to expect and are better informed about court proceedings.

CHART 3

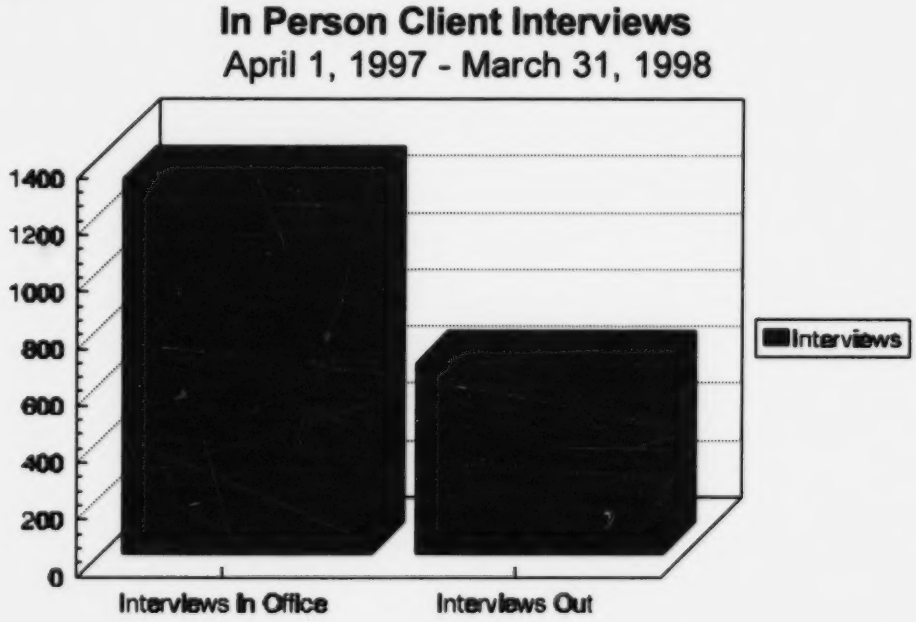


Client Services

It is generally accepted that no one service can meet all of a victim's needs. Victims of crime have a broad range of individual needs in addition to the common needs shared by other victims. For example, victims require information and emotional support shortly after the incident. Help at that time could include emotional support, crime prevention or referrals for medical care, social assistance, housing or to specialized services in the community (i.e., Avalon Sexual Assault Centre/Transition Houses), and help in dealing with Family Court issues. Once a criminal charge has been laid, victims' needs then include advocacy and support through the criminal process. This is the primary focus of Regional Victims' Services.

To ensure easy accessibility each office outside of the Halifax/Dartmouth metro area has a toll free 1-800 number. Often, however, service is provided in personal meetings with clients in the office, in court facilities or in the community. **Chart 4** indicates the number of in-person meetings with clients and shows that a significant number of interviews are conducted outside the office, usually requiring staff travel. As each Regional office provides service to a large geographic area, the majority of clients receive service by telephone.

CHART 4

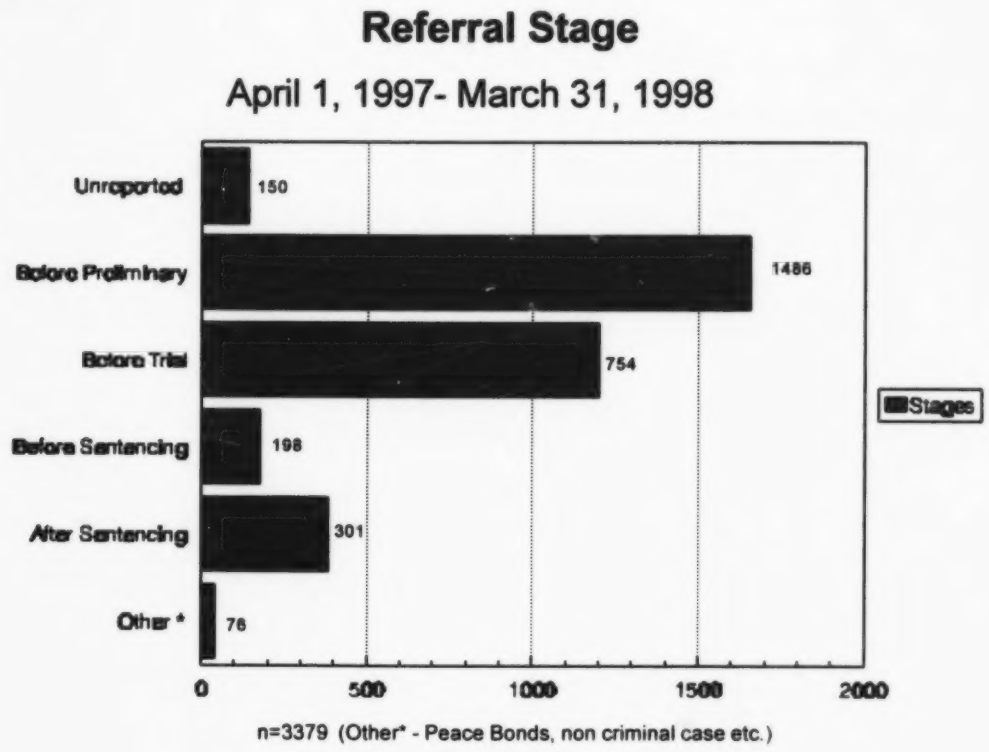


(Total number of in-person interviews = 1985)

Referral Stage

The major mandate of Regional Victims' Services is to assist victims of crime through the criminal justice process. This primarily involves providing information, advocacy and support during the court process, although contact may be made earlier in order to assist a victim apply for criminal injuries compensation and continued after sentencing to facilitate linkage with correctional services. As can be seen by **Chart 5** most victims are referred prior to a court hearing - most before the preliminary hearing but many not until the trial stage. Whenever possible Regional Victims' Services works in cooperation with other agencies providing services to victims of crime to ensure a coordinated response to victims needs. Referrals are regularly made between services. For example, RCMP Victim Assistance Programs and Transition Houses often make referrals to Regional Victims' Services once charges are laid and Regional Victims' Services often request the involvement of volunteer staff of those services to provide court accompaniment for victims.

CHART 5



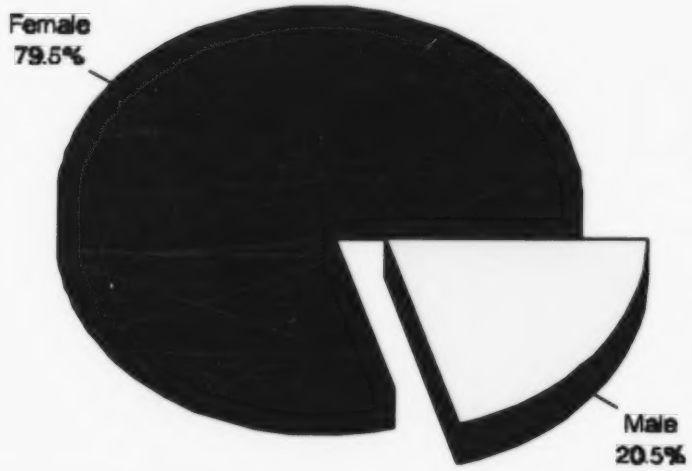
Client Profile

Approximately 80% of the clients served by Regional Victims' Services are female. Since the service gives priority to victims of spousal/intimate partner abuse and sexual assault, this is expected. In fact the typical client of Regional Victims' Services is female, aged between 20 and 40 years of age and the victim of an assault, most commonly domestic assault. See **Charts 6, 7 and 8.**

CHART 6

Client Profile By Gender

April 1, 1997- March 31, 1998

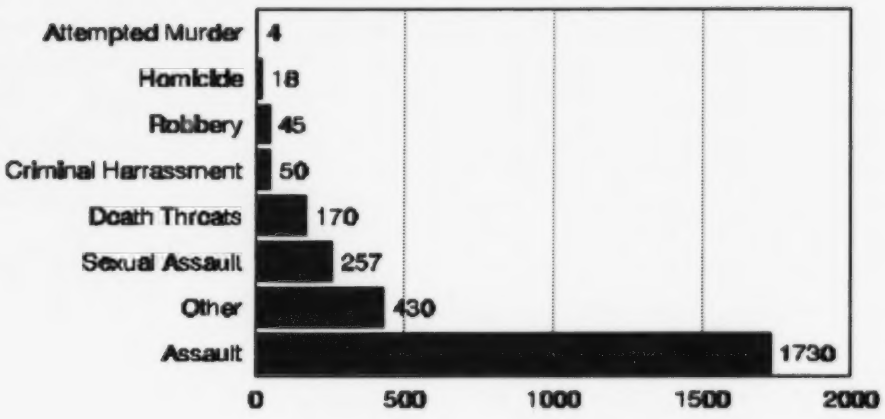


(n=3421, includes adults and children)

CHART 7

Violent Offences (Adult Victims)

April 1, 1997 - March 31, 1998

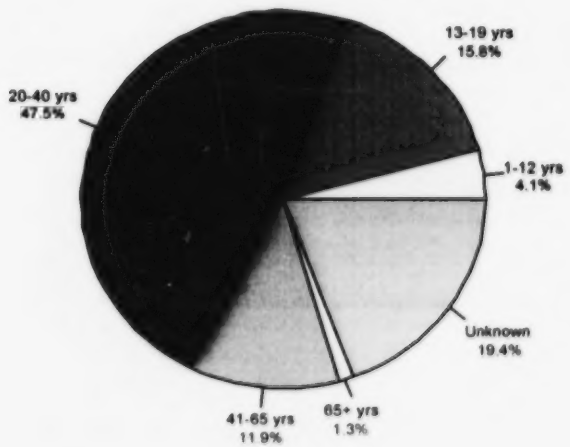


(based on most serious charge, n=2274)

CHART 8

Age of Clients Served

April 1, 1997 - March 31, 1998



(n = 3670)

CHILD VICTIM/WITNESS PROGRAM

Child Victim Witness Program was integrated into the core services of the Regional Victims' Services Offices in 1996. This program provides a specialized, non-evidentiary, court preparation program for children under 16. The eligibility age was reduced last year from 18 years to under 16. Ordinarily older children (i.e. over 16) receive the same service as adults; however, in cases where a young person (16-18) or even an adult is found to have special needs exceptions can be made and the specialized support offered by the children's program is provided.

The Child Victim Witness Program consists of individual pre-court sessions, often in the child's home, with the child and parent or support person. The program also includes a court tour; a pre-arranged meeting with the Crown Attorney; accompaniment at court hearings; debriefing following court; assistance in completing a Victim Impact Statement; and referrals to other supporting agencies.

Over the past year, the consultant model of program delivery has been replaced and this service is now provided by specially trained, fee-for-service Victims' Services Support Workers. This alternative model of service delivery was implemented in response to the external evaluation of the Division completed in September, 1996. The evaluation recommended a departure from the use of consultants to the adoption of a model of program delivery by assistants similar to the Assistant Probation Officer model.

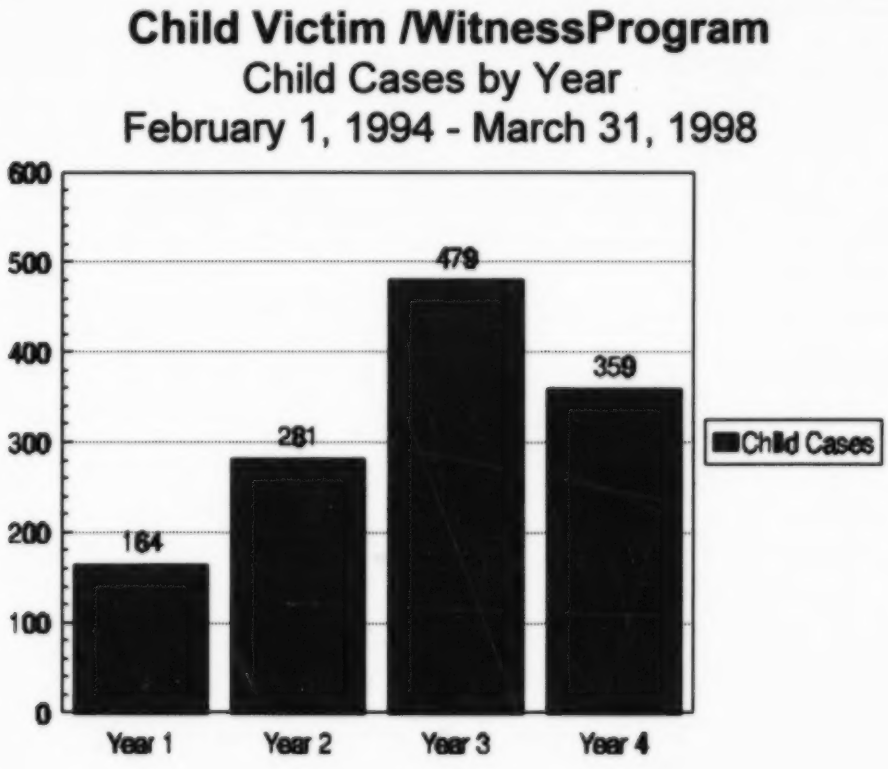
> *A cost analysis examined delivery costs associated with consultant delivery of the CVWP, based on a review of the actual costs associated with 108 cases. The results indicated a high level of variability in the costs of delivering the CVWP curriculum. This "open-ended" approach based on consultant time rather than an activity-based delivery of a service has resulted in a costly program. We recommend the use of an activity-based fixed cost approach to delivering the curriculum, along with the adoption of the Assistant Probation Officer model. The analysis found potential cost savings of 11 to 15 percent using a median-based fixed cost approach.* [6]

In addition to being more cost-effective, this model has facilitated increased coordination with other services by placing a priority on hiring the Victims' Services Support Workers from existing victim-serving organizations. As Victims' Services Support Workers work directly with the Regional Offices, they are also able to supplement the role of regional staff.

Child Cases by Year

From the start of service delivery in February 1994 until March 1997 the number of children referred to the service grew quickly as can be seen on **Chart 9.** During last year there was a reduction in the number of child cases, from 479 in 1996/97 to 359 in 1997/98. A positive interpretation of this statistic is that there were fewer child victims this past year who were scheduled to testify in criminal proceedings. It also may indicate, however, that there were child victims who were not referred to the service. Referrals for the service are made by the police, Crown Attorneys, Children's Aid Societies or other direct services to children and families.

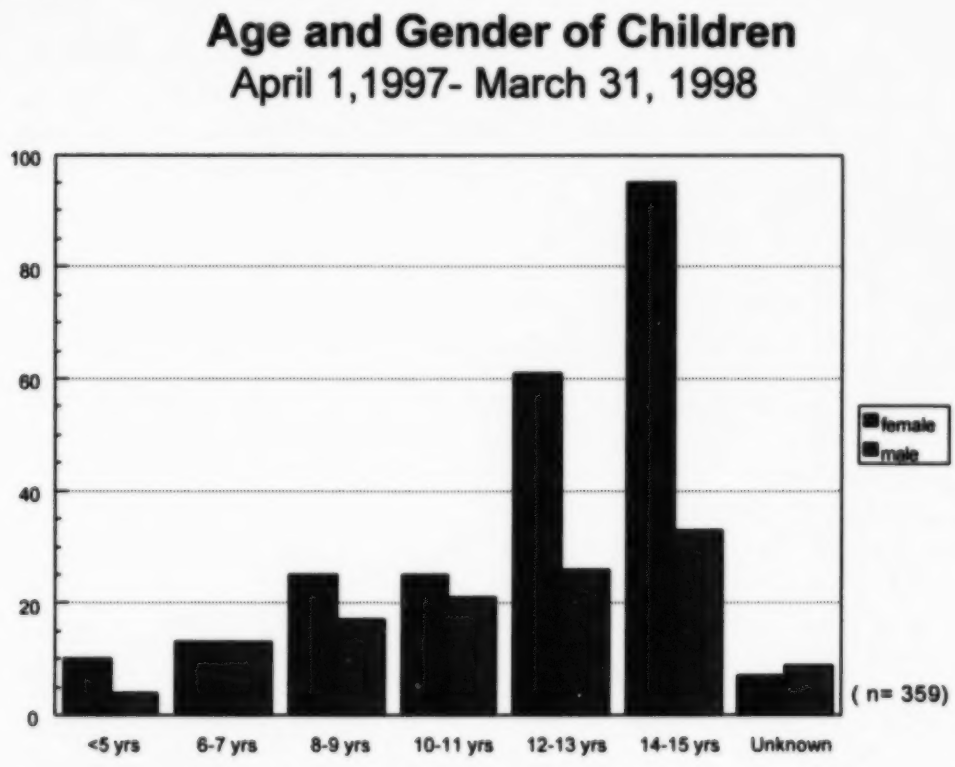
CHART 9



Age/Gender of Children

During 1997/98 the largest age group of children served were girls between 12 and 15 years of age. This has been the case since the inception of the Child Victim/Witness program. As indicated by **Chart 10**, Child Age and Gender, more girls were seen in each age category except for the children aged 6-7 years. The total number of child cases last year was 359, of which 66% were girls and 34% boys. The majority of children prepared for court through the program were child victims (299 or 83%). Child witnesses, who were not also victims, constituted the remaining 60 or 17%.

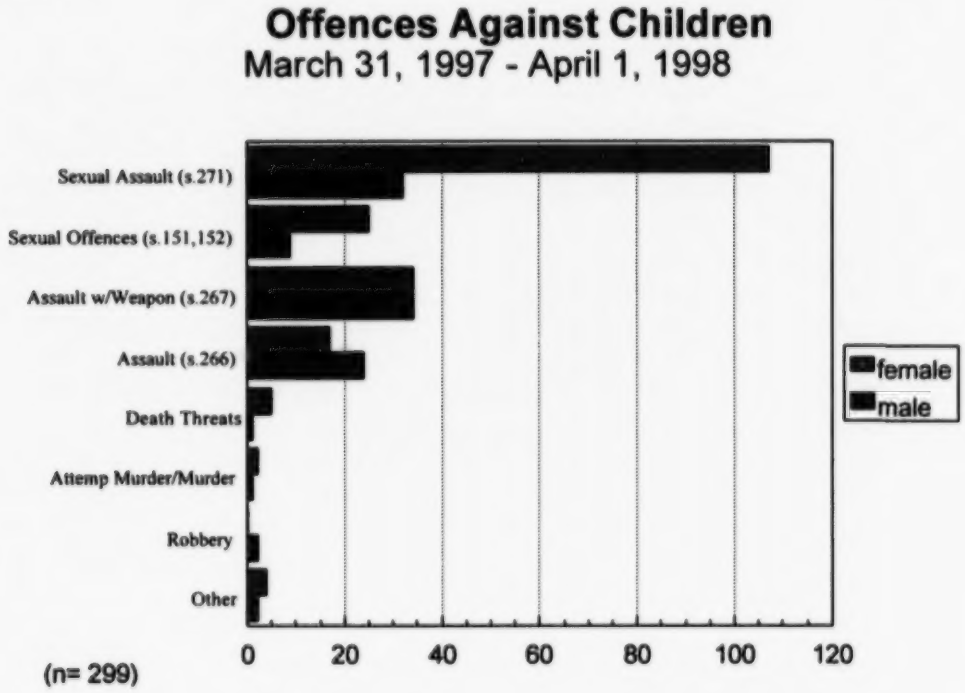
CHART 10



Offences Against Children

As illustrated in **Chart 11** the most common offence committed against children is sexual assault. Data collected since the program started indicates that victims in sexual assault cases are more likely to be girls than boys. Boys are generally more likely to be victims of physical assault than girls. However last year's statistics show that the same number of girls and boys were victims of the more serious assault charges, S. 267, Assault with a Weapon.

CHART 11



*Although the program provided service to 359 children, only 299 were victims of crime; the remaining 60 were witnesses but not direct victims of crime.

Relationship of Child to Accused

The majority of accused in child cases, as shown on **Chart 12** were family members. That category consists of parents, siblings, the intimate partner of a parent and other relatives. The other two significant categories of accused are Other Trust Relationship, which includes neighbors, babysitters, family friends, boarders and others in a trust relationship with the child, and Peers or classmates and friends. It is of interest to note that the category of offender most feared by parents, the stranger, is significantly lower than those who are known to the child. Therefore children generally have more to fear from the people they know than from strangers.

CHART 12

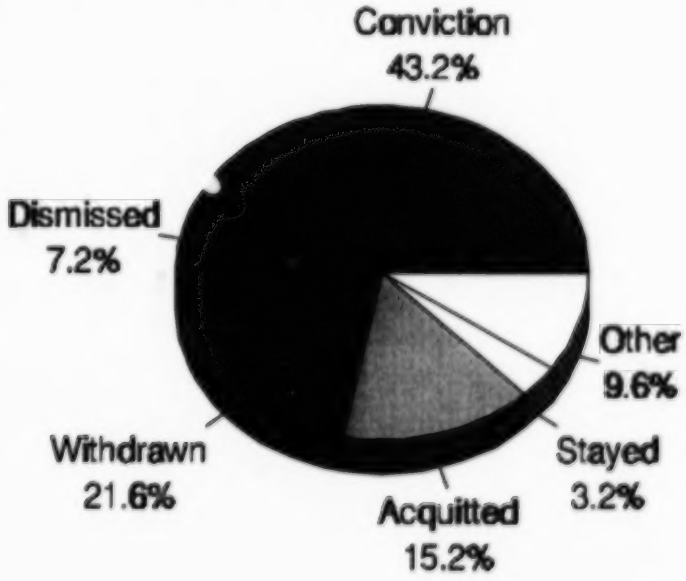
Case Decisions

Not all of the children prepared through the Child Victim Witness Program actually testify in court. Frequently decisions are made at the last moment which make it unnecessary for the child to attend court. **Chart 13** shows the outcome of cases last year. The largest group of cases in the Child Victim Witness Program resulted in convictions. It is notable, however, that the second largest category were acquittals and that a significant number of cases were withdrawn, stayed or dismissed. Those decisions can be difficult for the child and family. One of the purposes of the Child Victim Witness Program is to prepare the child for the possibility that the case will not proceed or the accused will be acquitted. Emphasis is placed on the roles of those involved in the criminal justice process: the role of the child is to tell their ' story' while the role of the Judge or jury is to decide on the outcome of the case based on all available information.

CHART 13

Child Victim Witness Program
Case Decisions

April 1, 1997 to March 31, 1998

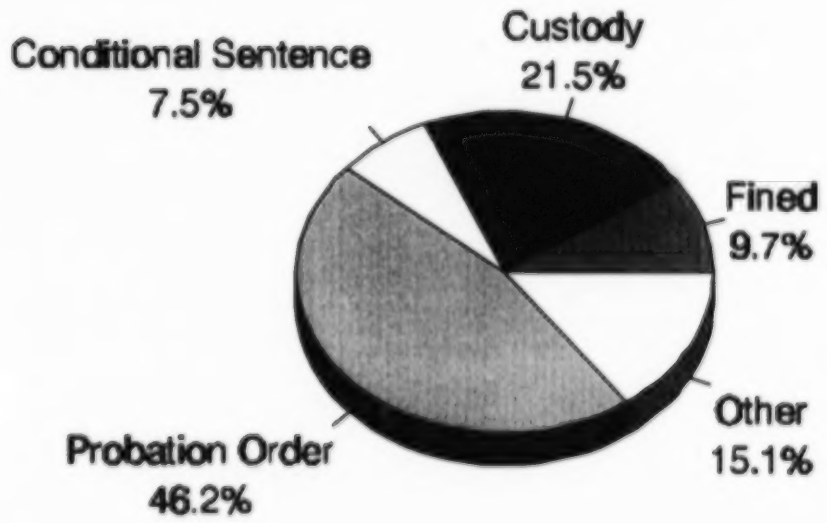


Child Case Outcomes

Cases can take up to two years to complete the court process, especially when there is a preliminary hearing and a trial. As demonstrated on Chart 13 in the cases completed last year over half were convicted. In a review of 93 cases involving children that resulted in convictions in 1997/98, **Chart 14**, almost half of the defendants (43) received Probation Orders, while twenty were given prison sentences, nine were fined, seven received conditional sentences and the remaining fourteen had a range of other sentences imposed on them.

CHART 14

Child Victim Witness Program
Case Outcomes
April 1, 1997 to March 31, 1998

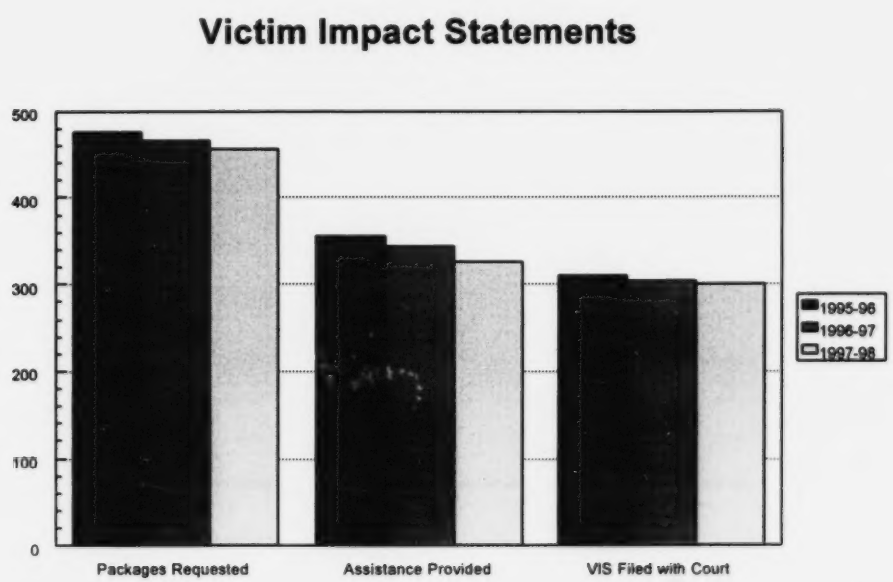


VICTIM IMPACT STATEMENT PROGRAM

Victim impact statements (VIS) provide an opportunity for the victim to tell the court about the financial, physical and emotional/psychological impact of the crime. In August 1994 when the Victim Impact Statement Program became a designated program under the Victims' Services Division, the process permitted the statements to be submitted to the court in a sealed envelope which was only opened upon a determination of guilt. In that way the statement was available to the court for immediate sentencing in instances where an adjournment was deemed unnecessary.

Changes to the *Criminal Code* in September 1996 resulted in the Court Clerk distributing the statements prior to a determination of guilt and use of statements as evidence in the trial. This has discouraged victims from submitting victim impact statements which are written in the victims' own language without legal advice. Also, as victim impact statements are now held in the Victims' Services offices until a finding of guilt and courts may not adjourn for sentencing, victims often lose their right to have a victim impact statement considered by the court. It is not surprising, therefore, that although the program has become better known over the past two years, the number of victim impact statements submitted to court is actually declining rather than increasing as had been initially predicted (victim impact statements submitted to court over the past three years - 310, 305 & 301).

CHART 15



Victims' Services Officers inform victims of their right to submit a victim impact statement and distribute the VIS packages. Each package is tracked until the victim either submits the VIS or makes a decision not to do so.

CRIMINAL INJURIES COMPENSATION PROGRAM

Background

Victims of crime often incur costs due to injury as a result of crime; therefore, one of the primary needs of victims of crime is financial assistance for such costs. The principle that the offender should make restitution as part of the penalty for wrongdoing is entrenched in both our criminal and civil legal systems. However, criminal courts do not commonly order restitution as the amount of loss is often not readily discernable and/or the offender does not have the means to pay.[7] As court ordered restitution appears to offer a limited avenue for financial assistance to victims of crime, publicly-funded compensation schemes were established to assist crime victims with some costs relating to personal injury.

New Zealand created the first criminal injury compensation program in 1963, followed shortly by Great Britain in 1964. Subsequently, compensation schemes have been developed throughout the United Kingdom, the whole of the Australian continent, and most jurisdictions in North America .[8]

In Canada, the first compensation scheme was established in 1969 in the province of Alberta. Creation of similar programs in each province and territory was encouraged by the Canadian Government through the establishment in 1973 of federal cost-sharing agreements for these programs. Although each province and territory had a compensation program in place by 1988, termination of federal cost-sharing in 1992 has since resulted in the abolishment of these programs in the Yukon, Northwest Territories and Newfoundland, and to increasingly restrictive programs in some of the other provinces.

The availability of financial assistance to victims of crime in Nova Scotia began in 1981 when the *Compensation for Victims of Crime Act* was proclaimed. The program was administered under the Criminal Injuries Compensation Board from 1981 to 1992. Effective April 28, 1992, the Criminal Injuries Compensation Board was replaced with a centralized administrative program under the jurisdiction of the Victims' Services Division. At that time, although most categories for financial awards remained the same, monetary awards for pain and suffering were replaced with counselling service awards.

This year, 1997/98, is the 6th year of operation of the Criminal Injuries Compensation Program under the auspices of the Victims' Services Division.

Transition From a Board to an Administrative Process

The *Victims' Needs and Services in Nova Scotia Research Project* completed by Dr. Christopher Murphy of Dalhousie University in 1991 identified victims of domestic violence, child abuse and sexual assault as having the highest level of need. It also stressed the need for both direct services and financial compensation for victims.

Under the Board program the majority of applicants were not those victims identified in the research as highest need. Counselling was seldom addressed in awards and there was no specific program within the Province of Nova Scotia for the provision of counselling services for victims of crime.

A report on the Criminal Injuries Compensation Board completed by the Nova Scotia Advisory Council on the Status of Women in April, 1990, noted the following concerns from a victim's perspective with the Board process:

- Trauma of victims going through a Board hearing often after the completion of a criminal trial. The perpetrator had the right to be present at the Board hearing and ask questions of the victim that would often not be admissible in a criminal court.

- Board members were all male and an increased number of applications involved female victims of sexual assault. (Note: A woman was appointed to the Board in 1991.)

- Legal fees of victims in bringing claims before the Board. Lawyer contingency fees were typically 30% of amounts awarded.

In 1991/1992, the last year of the Board's existence, male applicants of physical assault represented 54% of all applications. Sexual assault was involved in 16% of applications. Although victims of sexual assault, child abuse and domestic violence are predominantly female, only 40% of applicants were female. Although Halifax represented only 37% of the provincial population, 60% of applications received from victims who resided in Nova Scotia were from Halifax County. The average time taken to process an application was 22 months.

The staff complement to operate the Board process included 5 Board members, 1 program administrator and 2 secretaries. Administration costs, including salaries, in the final year of Board operation was $769 per decision.

Specific objectives of the transition from the Board process to an administrative program were:

- Increase applicant satisfaction with the program
- Simplify the CIC process for applicants
- Reduce the time required for applicants to receive a decision
- Increase the amount of the award retained by victims by reducing the need for lawyers
- Increase accessibility to CIC for victims across the province

- Change the profile of CIC recipients from primarily male physical assault victims
- Increase % awards to high-need victims (domestic violence, sexual assault, child abuse)
- Ensure viability of the program by maintaining award expenditures within budget authority
- Reduce administrative/salary costs from CIC to develop regional services for victims
- Direct compensation funds toward mitigating the trauma that victims suffer from crime
- Eliminate the need for a board hearing

Results Achieved by the Change from Board to Administrative Program

Placement of the Criminal Injuries Compensation Program within the Victims' Services Division provided for a comprehensive, integrated approach to the delivery of services to victims of crime as victims were able to access from one source all justice programs specifically directed toward victims. The reduction in staffing and administrative costs also facilitated the development of Regional Victims Services Offices for the provision of province-wide direct services to victims of crime. The program also provided for counselling services from qualified private practitioners within the community to assist victims of crime to deal with the trauma of the offence.

A six-month external evaluation of the Criminal Injuries Compensation Program completed in September, 1996, concluded:

- Successful and effective transition from a Board-based to administrative process
- Program meets the needs of clients in a fair, objective and efficient manner
- Counselling, the most common reason for applying for CIC, was included in 75% of awards

Under the Victims' Services Division, compensation is awarded by the Director of Victims' Services based primarily on documentation from the victim, police, and medical authorities. Since Board hearings for applicants have been eliminated and, in most cases, it is no longer necessary to await the resolution of the court proceedings, time to process an application has been reduced on average from 22 months to 90 days. In addition, the simplified process has effectively eliminated the need for lawyers to be retained by victims. If dissatisfied with the decision of the Director, the applicant may request a hearing before an independent appeal tribunal.

Staffing for the program has been reduced to only a Manager and a Secretary. The remaining positions from the previous Board provided partial staffing for Regional Victims' Services Offices. Regional staff inform victims of Criminal Injuries Compensation and assist them with applications. The administrative cost per decision has been reduced from $769 in the last year of Board operation to $212 in 1997/98.

The number of applications under the Board had reached an all-time high of 385 in 1991/92. Applications under the new program peaked at 529 in 1996/97 and plateaued at approximately 470 in the past two years. Applicants are now widely distributed across the entire province. In 1997/98 only 28% of applications came from Halifax as compared to 63% in 1991/92.

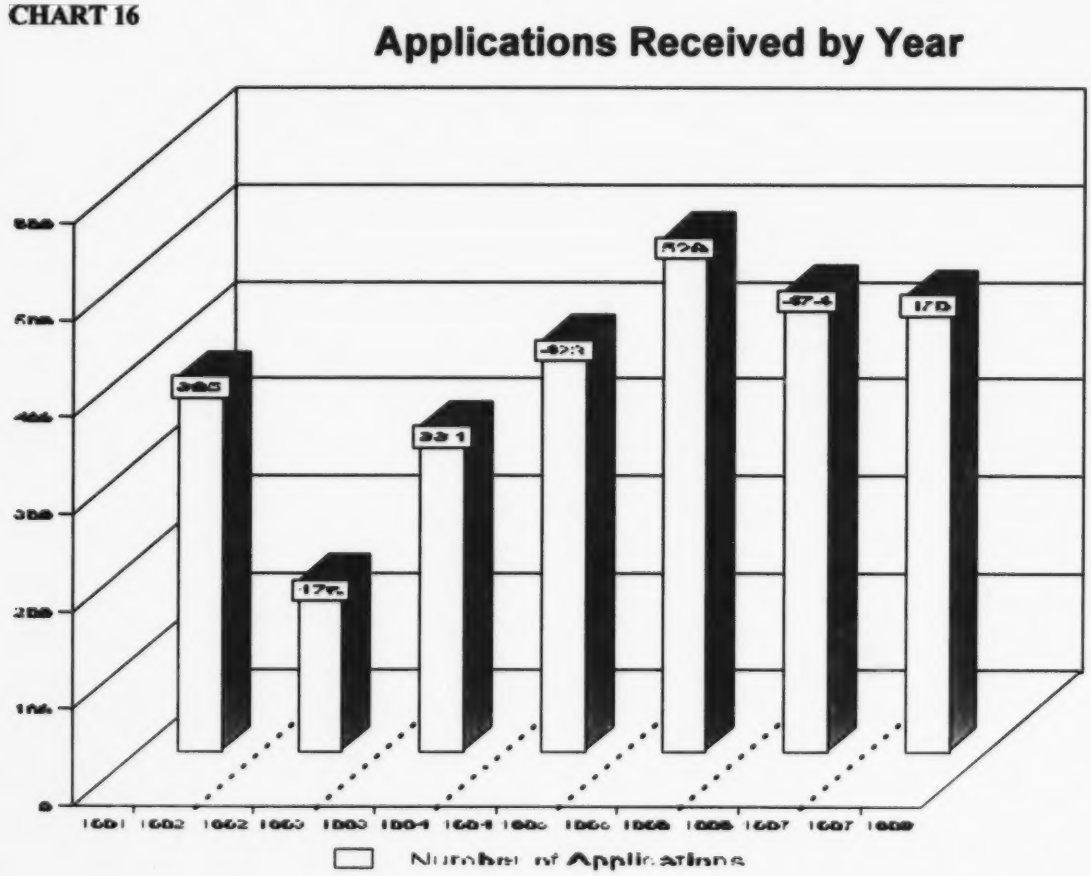
The profile of applicants has also significantly changed since 1991/92. In 1997/98, applicants were predominantly female (71%); the offence was identified as physical assault in 47% of applications and sexual assault in 39%; 69% of the applicants in relation to physical assault were female; in 35% of applications the accused was a family member; 33% of applications were for children under the age of 18.

STATISTICAL REVIEW OF THE CRIMINAL INJURIES COMPENSATION PROGRAM

Applications Received By Year

There were a total of 470 applications received between April 1, 1997, and March 31, 1998. This is consistent with the number received last fiscal year (474). As indicated in **Chart 16**, the number of applications increased steadily between 1992/1993 and 1996/1997, and plateaued this past year.

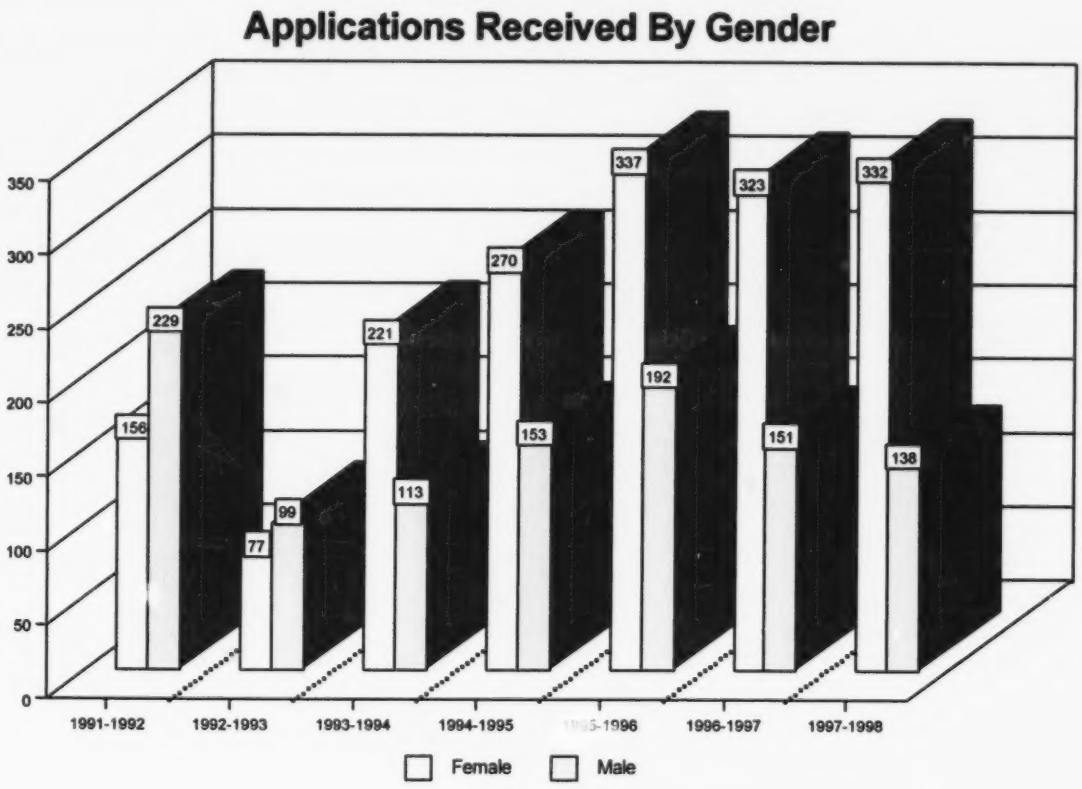
CHART 16



Applications Received By Gender

In 1997/1998, the majority of applicants (71%) were female. This is similar to 1996/1997 figures (68.1% female, 31.9% male). Indeed, with the exception of the transition year from the Board to an administrative process, the majority of applicants under the revised program have been female. This finding is in contrast with the previous Board process where the majority of applicants were consistently male.

CHART 17

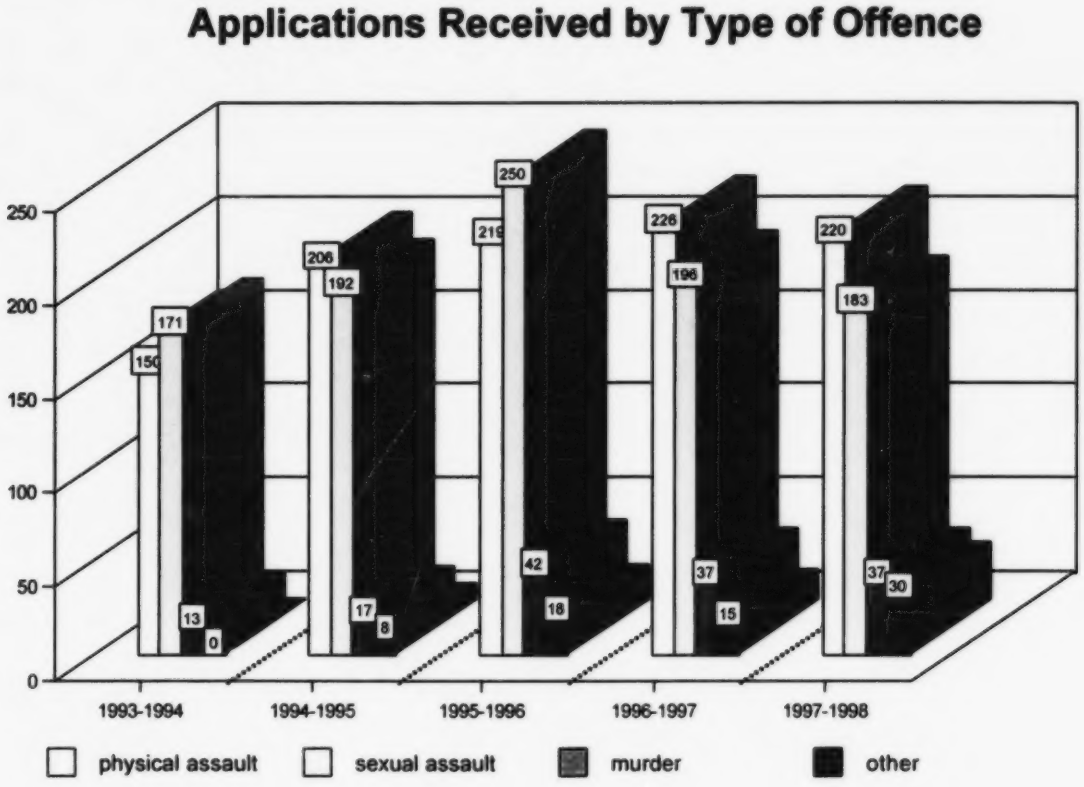


Applications Received By Type of Offence

Chart 18 shows the number of applications received per year by the type of offence. Overall, the most common type of offence reported was physical assault. However, the number of applications received in relation to sexual assault exceeded that submitted for physical assault in both 1993/1994 (physical assault = 150; sexual assault = 171) and 1995/1996 (physical assault = 219; sexual assault = 250). These figures represent a significant contrast with applications received by the Board in 1991/1992. During this period, 77.7% of all applications submitted were in relation to physical assault. Only 15.8% of applications were submitted in relation to sexual assault.

The percentage of applications received by the program in relation to murder has increased from 3.9% in 1993/1994 to 7.9% in 1995/1996. This percentage has remained consistent for the last three years of the program.

CHART 18



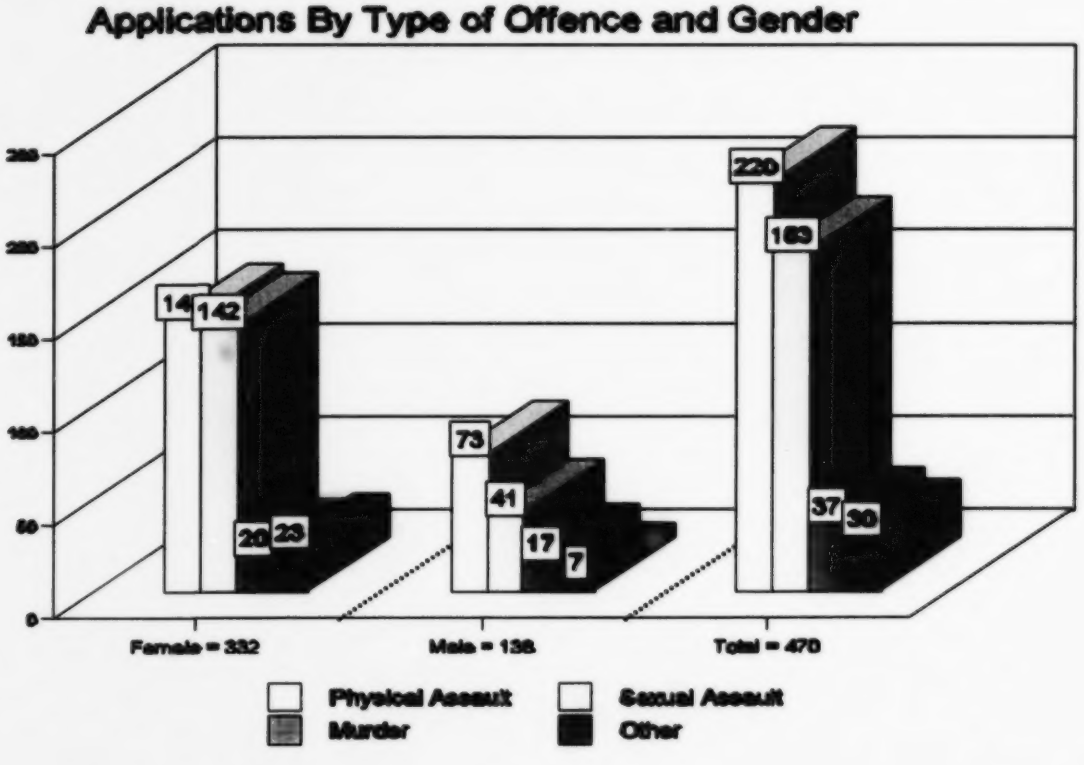
Applications By Type of Offence and Gender

In 1997/1998, the most common offence reported by applicants was physical assault (46.8%). Sexual assault accounted for 38.9% of applications submitted while 7.9% of applications received pertained to the crime of murder. These statistics are consistent with 1996/1997 figures.

Female applicants represent the majority of cases involving physical assault (66.8%). This figure represents a 3% increase since 1996/1997, and a 12.5% increase since 1995/1996 in the number of female applicants filing in relation to physical assault. In 68% of all applications received from female victims of physical assault, the accused was a spouse/intimate partner.

Conversely, the number of female applicants who filed in relation to sexual assault has decreased since 1995/1996. In 1997/1998, there were 142 applications filed by females as a result of sexual assault; in 1996/1997, 156 applications; while in 1995/1996 there were 204 applications. However, female applicants still represent most sexual assault applications (1997/1998 = 77.6%). The number of applications received by male applicants for sexual assault has been relatively constant since 1995/1996 (95/96: 46 applicants; 96/97: 40 applicants; 97/98: 41 applicants).

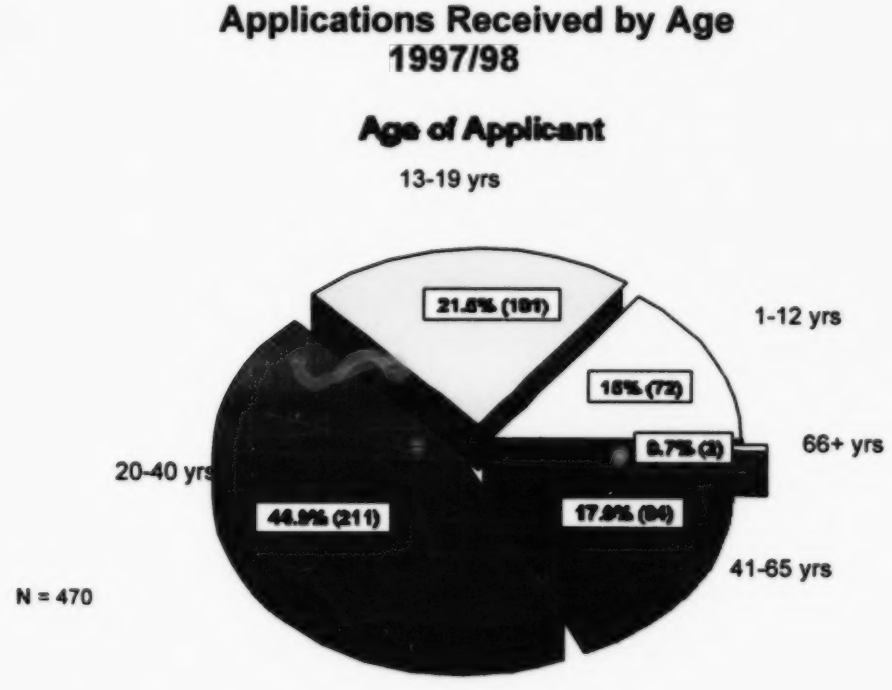
CHART 19



Applications Received By Age

The majority of applicants (45%) were between the ages of 20 and 40 years when they applied for compensation. A high percentage of applicants (36.5%) were 19 years of age or younger.

CHART 20



Applications Received By Region and County

The majority of applications per region **Chart 21**, were received from the Western region (29.7%), while the program received a similar amount from the Halifax region (29.2%). As illustrated in **Chart 22** these figures differ significantly with the percentages received per region under the Board program. In the Board's final year, 1991/1992, the majority of applications (60%) were submitted from the Halifax region as the Board resided in Halifax. The creation of Victims' Services Regional Offices has resulted in increased accessibility to CIC information for all victims of crime in Nova Scotia. Indeed, the percentage of applications received from outside of the Halifax region (including out of province applications) has increased from 37.9% in 1991/1992 to 67% in 1997/1998.

CHART 21

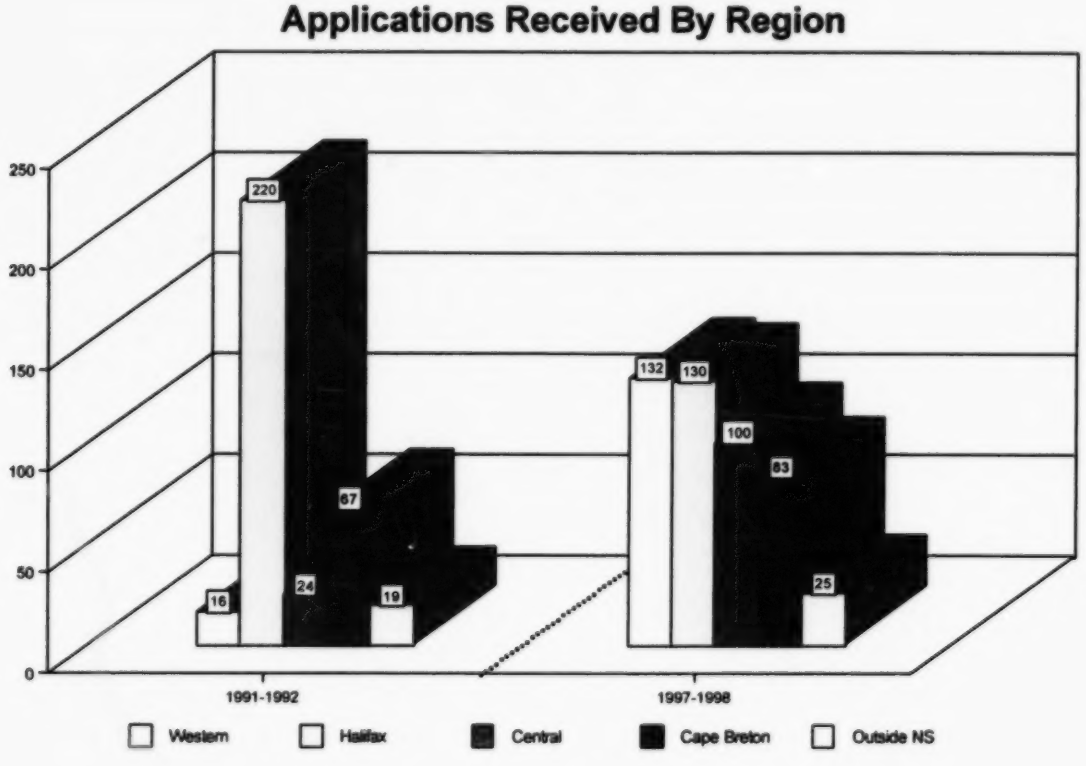


CHART 22

APPLICATIONS RECEIVED BY COUNTY

County	Applications Received	Percent
Halifax	130	29.2%
Cape Breton	61	13.7%
Kings	49	11.0%
Colchester	34	7.6%
Pictou	32	7.2%
Lunenburg	24	5.4%
Hants	21	4.7%
Cumberland	20	4.5%
Inverness	13	2.9%
Yarmouth	12	2.7%
Antigonish	10	2.2%
Annapolis	8	1.8%
Queens	8	1.8%
Richmond	7	1.6%
Shelburne	6	1.4%
Digby	4	0.9%
Guysborough	4	0.9%
Victoria	2	0.5%
Total N.S.	445	100%
Outside N.S.	25	
Total Applications	470	

-

Applications Received - Accused a Family Member

In 164/470 or 34.9% of all applications received a family member was reported as the offender in the case. The family member most commonly reported as the offender was the husband of the applicant (24.2%).

CHART 23

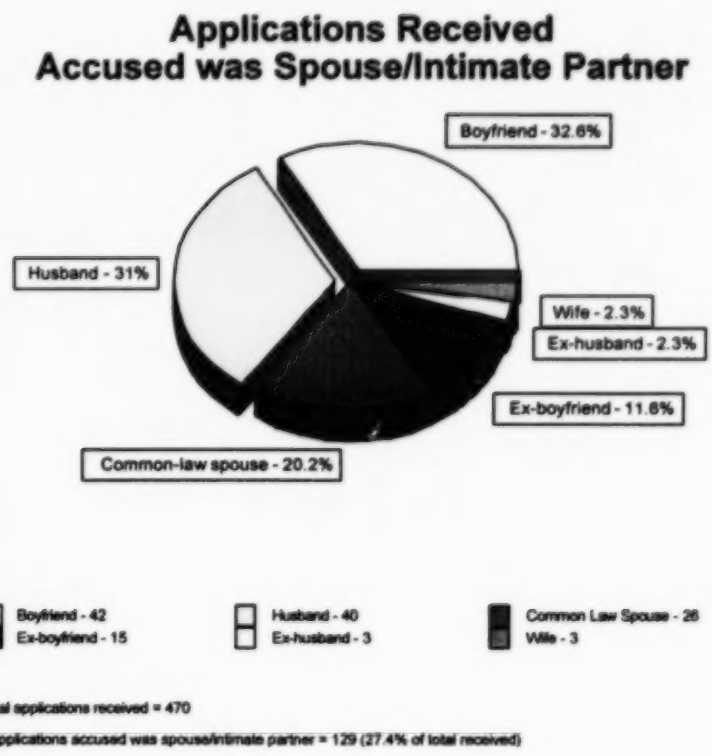
APPLICATIONS RECEIVED WHERE THE OFFENDER WAS A FAMILY MEMBER

Offender	Number of Applications
Husband	40
Father	32
Common-Law Spouse	26
Cousin	16
Uncle	12
Step-Father	11
Brother	6
Grandfather	5
Wife	3
Ex-Husband	3
Daughter	2
Step-Brother	2
Brother-In-Law	1
Foster-Mother	1
Great Grandfather	1
Guardian	1
Mother	1
Step-Mother	1
Total Applications	164

Applications Received - Accused was Spouse/Intimate Partner

The Framework for Action Against Family Violence defines spouse or intimate partner as marital partners (including common-law spouse), as well as dating partners. A total of 129 applications were received by the program in which the accused was a spouse or intimate partner of the victim. Hence, 27.4% of all applications received by the Program were submitted in relation to reported spouse/intimate partner abuse. The majority (32.6%) reported the boyfriend of the applicant as the offender, followed by the husband of the applicant (31.7%).

CHART 24



Victim/Accused Relationship in Murder Cases

Thirty-three applications were received by the program in relation to 14 murders which occurred in Nova Scotia. Forty-three percent or 6/14 of those murders were allegedly committed by an intimate partner of the victim.

CHART 25

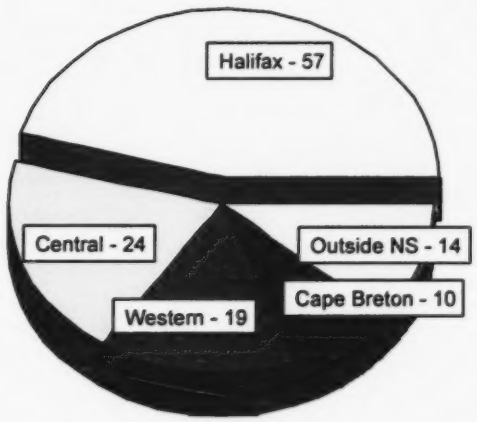
Victim/Accused Relationship in Murder Cases
(Note: 33 applications received in relation to 14 murders)
Spouse/intimate partner = 6
Other relationship = 8
Total murder victims = 14

Number of Approved Counsellors Per Region

As of March 31, 1998, the Criminal Injuries Compensation Program had a total of 124 approved counsellors. Most of these counsellors (110/124 or 88.7%) provide service in Nova Scotia. Although 51.8% of the counsellors provide service in the Halifax region, only 26.5% of counselling awards were granted to residents of Halifax County. Only 9% of counsellors provide service in Cape Breton, while the program granted 15.2% of counselling awards to Cape Breton applicants. The majority of counselling awards (30%) were granted to applicants from the Western region with 15.3% of approved counsellors providing service in that area. Of approved counsellors 19.4% provide service in Central Nova Scotia, and 28.3% of counselling awards were granted to Central region applicants.

CHART 26

Number of Approved Counsellors Per Region



N = 124

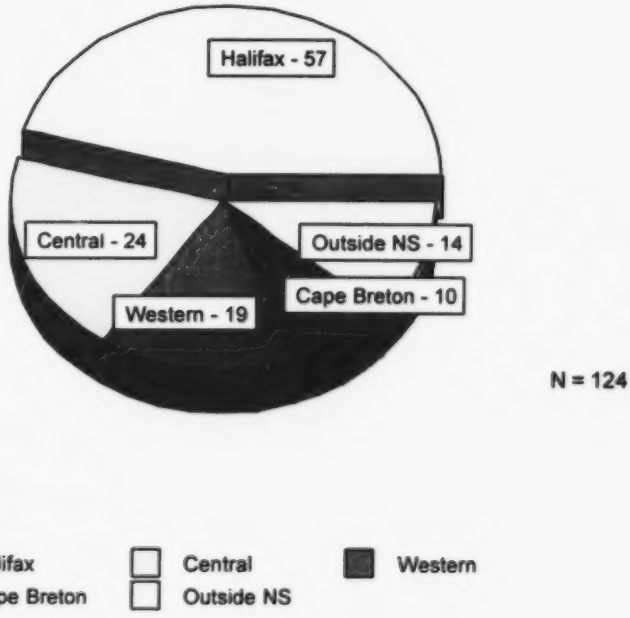
Halifax
Central
Western
Cape Breton
Outside NS

Applications By Type of Decision

A total of 454 decisions were made by the Director of Victims' Services on CIC applications during the 1997/1998 fiscal year. Of these decisions 63.2% (287) were approvals for compensation, while 14.3% were denials. The Director dismissed 22.5% of applications reviewed due to the applicant's abandonment or withdrawal of his/her application for compensation.

CHART 27

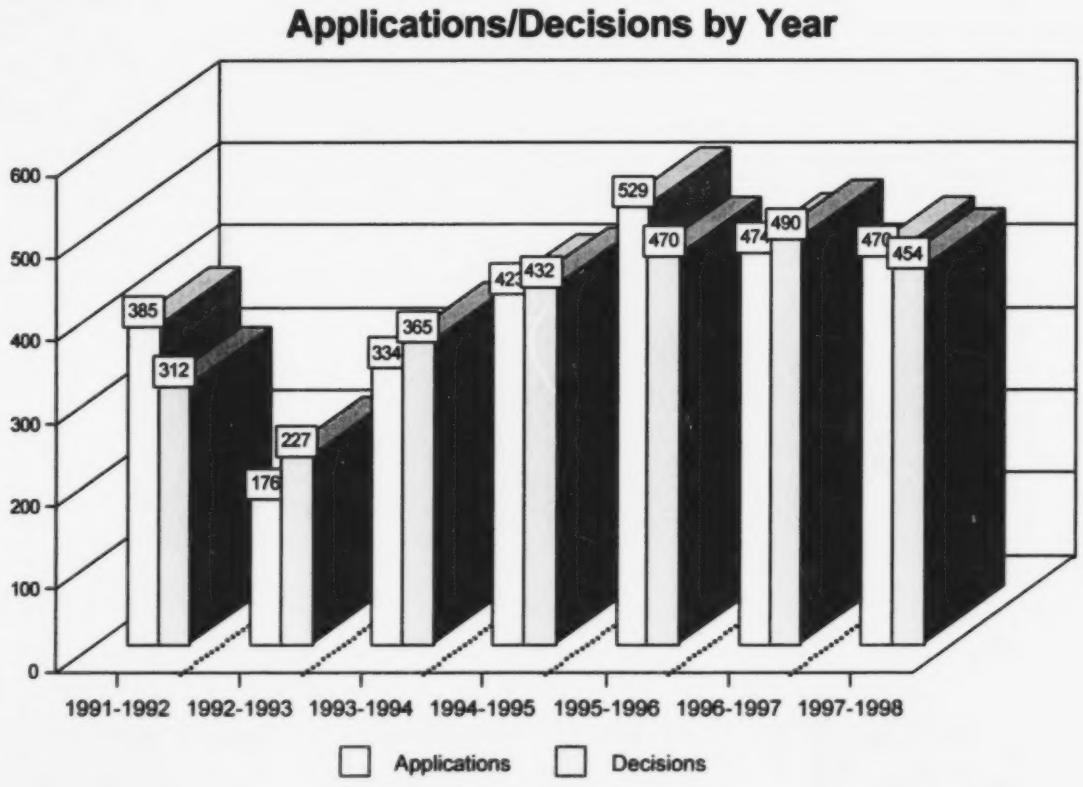
Number of Approved Counsellors Per Region



Applications/Decisions By Year

Since the establishment of the Criminal Injuries Compensation Program within the Victims' Services Division in 1992/1993, the program has received an average of 401 applications per year, and has made an average of 406 decisions per year. Under the Board's process, the number of applications consistently exceeded the number of decisions made. This may be attributed to the Board process in which it took an average of 22 months to make a decision on an application. The Criminal Injuries Compensation Program simplified the CIC process for applicants and reduced the amount of time required for applicants to receive a decision. The program strives to make a decision within 90 days of receiving an application, and this is demonstrated by the consistently high number of decisions made in relation to applications received.

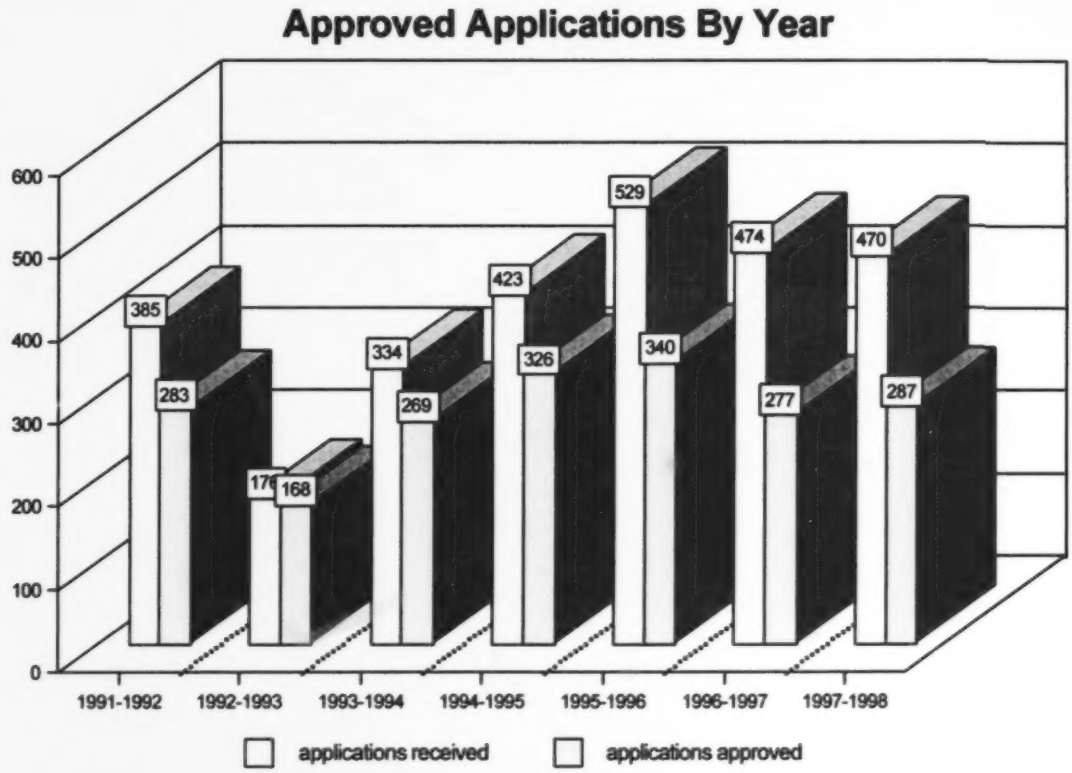
CHART 28



Approved Applications By Year

During the period 1992/1993 to 1997/1998, the average number of applications received per year was 401. The average number of applications approved per year during this period was 278. On average, 69.3% of applications received met the entitlement conditions required by the Criminal Injuries Compensation Program. During the final year of the Board, 1991/1992, 283 applications were approved while 385 applications were received that year. The ratio of applications received to applications approved for 1991/1992 is 283/385 or 73.5%. This percentage is just slightly above that for the average approval rate under the CIC Program.

CHART 29



Approved Applications By Criminal Code and Gender

In 1997/98, 44.5% of awards granted related to physical assault (CC 266, 267, 268). This is an increase of 11% from 1996/1997 when 33.5% of awards granted pertained to physical assault. In 1997/98 71.1% of awards for physical assault were granted to females.

Sexual offences (CC 271, 151, 152, 153, 173(2)) account for 37.6% of awards granted, a decrease of 11.5% from 1996/1997. The majority of awards (67.6%) in relation to sexual offences were granted to females. Murder, manslaughter, and attempted murder represent 12.8% of awards granted. This figure is consistent with 1996/1997 figures (12.7%).

In 1997/98, 68.3% of awards were granted to female applicants, which is not unexpected since female applicants comprise 70.6% of total applicants. Of the awards granted to female applicants, 46.4% of these applicants were victims of physical assault, and 37.2% were victims of a sexual offence. Male applicants represent 29.4% of total awards granted. In awards to male applicants 40.7% were in relation to physical assault, while 38.5% of awards were granted for sexual offences.

CHART 30: APPROVED APPLICATIONS BY CRIMINAL CODE AND GENDER

C.C.	Description of Offence	Female	Male	Total	%
271	Sexual Assault	66	26	92	32.1
266	Assault	72	17	89	31.0
267	Assault with Weapon or Causing Bodily Harm	18	16	34	11.8
235	Murder	20	13	33	11.5
151	Sexual Interference	7	6	13	4.5
220	Causing Death by Criminal Negligence	4	2	6	2.1
268	Aggravated Assault	1	4	5	1.7
236	Manslaughter	2	1	3	1.0
343	Robbery	2	1	3	1.0
86	Dangerous use of Firearms	2	0	2	0.7
152	Invitation to Sexual Touching	0	2	2	0.7
153	Sexual Exploitation	0	1	1	0.3
173(2)	Exposure	1	0	1	0.3
221	Causing Bodily Harm by Criminal Negligence	0	1	1	0.3
239	Attempted Murder	0	1	1	0.3
264	Criminal Harassment	1	0	1	0.3
	TOTAL	196	91	287	100.0

Award Categories and Amounts:

The program granted 287 awards averaging $2491.47 each with a projected overall payout of $707,576.74. These figures represent a decrease in projected payout from 1996/1997 ($792,732.50) although the number of awards granted increased slightly from last year (277). 84.9% of approved applicants received counselling in their award. This represents an 11.6% increase in counselling awards from the previous year (1996/1997 = 73.3%). There was a significant reduction in the number of medical/pharmaceutical awards granted in 1997/1998; only 15 awards included this category as compared to 47 awards in 1996/1997. There was a 64% increase in the number of awards granted for lost income (1996/1997 = 14; 1997/1998 = 23), while the number of awards granted in relation to funeral expenses was similar to last year (1996/1997 = 15).

The program granted 15 child maintenance awards in 1997/1998. One of these awards was in relation to a child born as a result of sexual assault. The remaining awards were made in relation to a parent who died as a result of murder. Three awards were granted in relation to spousal maintenance during this period.

CHART 31

APPROVED AWARDS BY CATEGORY AND AMOUNT

Award	Amount 97/98	# Occurrences
*Counselling (1)	$243,000.00	243
*Maintenance	$238,869.12	18
Funeral/Burial	$78,009.41	16
Lost Income	$44,752.69	23
Dental Fees	$26,167.64	18
Travel (medical, dental, counselling)	$22,952.71	43
*Counselling (2)	$28,000.00	28
Medical	$7,358.01	15
Moving	$7,009.55	6
Damaged Clothing	$5,286.16	37
Other	$3,745.45	22
Child Care (medical, dental, counselling)	$2,427.00	10
Total	**$707,576.74**	**479**

Reasons for Denied Applications

A total of 65 applications were denied by the program. The majority of these applications (41.5%) did not have sufficient evidence to conclude on the preponderance of evidence that the applicant was the victim of an eligible criminal offence, or that injuries resulted from an eligible criminal offence.

CHART 32

REASONS FOR DENIED APPLICATIONS

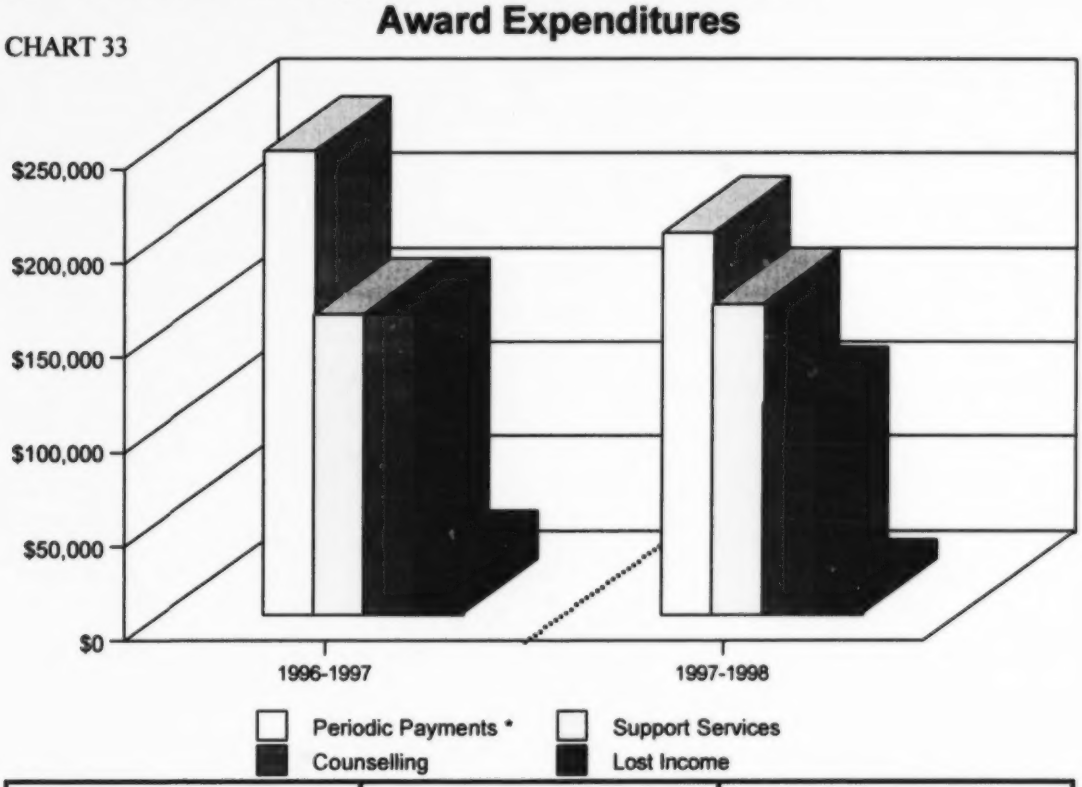
Reason For Denial	Number of Applications Denied
No proof of eligible offence	27
Applicant did not cooperate with police	10
Eligible for services through other agency	10
Application not received within 1 year of crime	7
Behavior of applicant	7
Claim under minimum limit ($50.00)	2
Other	2
Total Denials	**65**

Award Expenditures

The total award expenditures for 1997/1998 were $486,927.00. This amount represents a 17% decrease in spending in comparison with 1996/1997. Although there was a 42% decrease in expenditures for counselling services from last fiscal year, it is interesting to note that the number of counselling awards increased from last fiscal year (1997/1998 = 243; 1996/1997 = 203).

1Periodic payments (ongoing monthly payments for child maintenance, spousal maintenance, lost income, and medical expenses) experienced a 21.3% reduction since 1996/1997. This reduction may be attributed to the fact that two lost income periodics terminated late in 1996/1997. An additional two lost income periodics terminated early in the 1997/1998 fiscal year, and there were no new lost income periodics established during 1997/1998. As lost income payments are payable up to $1000.00 per month, there would be a notable difference in payout with terminations of this type of award.

CHART 33



	1996 - 1997	1997 - 1998
Periodic Payments	$244,736.00	$201,797.00
Support Services	$158,516.00	$163,873.00
Counselling	$158,701.00	$111,624.00
Lost Income	$24,833.00	$9,633.00
Total	**$586,786.00**	**$486,927.00**

CRIMINAL INJURIES COMPENSATION PROGRAM INFORMATION

How can you apply for compensation?

Applications for compensation can be obtained through any office of the Regional Victims' Services Program or the office of the Criminal Injuries Compensation Program. Completed applications are forwarded to the Criminal Injuries Compensation Program. Applications for children under the age of 16 years must be signed by the parent or legal guardian of the child. There is no cost to the applicant for filing an application.

Who can be considered for compensation?

A person who has suffered personal injury as a result of an eligible crime which occurred in Nova Scotia may be eligible for compensation. Compensation may also be provided to persons who were injured while attempting to prevent the commission of a crime.

Applications are to be made within one year of the date of the criminal injury.

This one year filing requirement can be extended in exceptional circumstances. Special provisions in the *Act* waive the one year filing requirement for certain victims of sexual assault, particularly childhood victims of sexual assault.

What requirements have to be met in order for compensation to be granted?

A report must be made to the police and the applicant must cooperate fully with the police investigation and any court proceedings. There must be sufficient evidence to determine the applicant was injured as a result of an eligible crime listed in the *Victims' Rights and Services Act*. Eligible crimes include physical assault, sexual assault and murder. Compensation may be granted in some instances in which charges were not laid or a guilty verdict was not rendered. Although the crime must have occurred in Nova Scotia, the applicant does not have to be a resident of Nova Scotia to apply for compensation.

What are some of the factors considered when determining eligibility for compensation?

- Was the crime reported to the police?
- What was the outcome of the police investigation?
- Did the police lay charges against the alleged offender?
- Is the applicant the person injured?
- Was the applicant injured as a result of a Scheduled Offence under the *Act*?
- What was the outcome of the court proceedings?
- Did any behavior of the applicant directly or indirectly contribute to the incident?
- Did the applicant cooperate in the investigation and prosecution of the offence?
- Was the applicant involved in the commission of an offence during the incident?

When will a decision be made?

A decision will often be made once the program has obtained a detailed written report from the police and medical documentation. The program will await the outcome of the court proceedings if the circumstances of the offence are unclear or if there are indications that the applicant may not cooperate with the investigation and prosecution of the offence or if the behavior of the applicant may have contributed directly or indirectly to the incident. If the applicant does not agree with the decision, the applicant can appeal the decision to the Nova Scotia Utility and Review Board. An appeal must be filed within 30 days.

What loss categories may be considered for payment?

Specific direct costs resulting from the criminal injury such as lost income, certain uninsured medical and dental expenses, and funeral expenses can be paid by the program. The program also provides awards to pay for counselling services from qualified private practitioners who meet the qualifications for approved counsellor status.

Compensation may be awarded as lump sum or periodic monthly payments. The maximum limits are $30,000 in lump sum and $1000 per month in periodic payments. If both lump sum and periodic payments are awarded, only one (but not both) may exceed half of the maximum. Where the award is determined to be less than $50.00, no compensation is awarded.

What offences, losses or injuries does the program not cover?

The following are some of the offences, losses or injuries not covered by the program:

- Offences which occurred outside of Nova Scotia;
- Injuries not directly caused by the criminal offence;
- Stolen money, or loss of or damage to property, including a car or home;
- Legal fees or costs;
- Injuries covered by other sources such as insurance or by the Nova Scotia Workers' Compensation Program;
- Any offence not listed in the Schedule to the *Victims' Rights and Services Act.*

PROGRAM DECISIONS

This section provides a sample of claims that were decided by the Program during 1997/1998 fiscal year.

APPLICATIONS APPROVED

Physical Assault
File # 97/04-024
The applicant was the victim of a physical assault by her husband. She suffered lacerations to her face as well as dental injuries as a result of the assault. The accused plead guilty to assault causing bodily harm and received a sentence of 18 months probation and 3 months conditional sentence. The victim had limited dental coverage. Among the losses claimed by the applicant, the applicant requested compensation for dental expenses which were not covered by another source.

The following award for compensation was approved by the Director of Victims' Services:

Dental expenses	$ 3,196.25
Child care expenses to attend approved medical/dental/counselling appointments	$ 90.00
Travel expenses to attend approved medical/dental/counselling appointments	$ 66.96
Counselling fees (payable to an approved counsellor through the Criminal Injuries Compensation Program)	$1,000.00
TOTAL	**$4,353.21**

Sexual Assault
File # 97/10-267
The applicant reported that he was sexually assaulted by an acquaintance. The accused was charged with section 271(1)(a) of the Criminal Code and was awaiting a preliminary hearing when the application for compensation was submitted to the program. Information was obtained from the police and the Director of Victims' Services determined, on a preponderance of evidence, that an eligible criminal offence occurred.
The following compensation award was approved by the Director of Victims' Services:
Counselling Fees: $1,000.00
(payable to an approved counsellor through the Criminal Injuries Compensation Program)

Murder
File # 97/09-242
The program received an application for compensation from the uncle of a 13 year old applicant. The applicant's mother had been murdered by his father. The accused was charged with Section 235 of the Criminal Code and the case was pending a preliminary hearing at the time the decision on compensation was made.

Child maintenance payments are payable through the program to an approved maximum of $196.00 per month until age 18. This payment may be extended to age 21 if the child is in full time attendance at an educational institution.

The maximum payable for funeral expenses through the program is $6000.00 (not including HST).

The following compensation award was approved by the Director of Victims' Services:

Child Maintenance	*$12,152.00
Counselling Fees (payable to an approved counsellor through the Criminal Injuries Compensation Program)	$ 1,000.00
Funeral Expenses	$ 3,474.66
TOTAL	**$16,626.66**

*The child maintenance figure represents the amount payable up to the applicant's 18th birthday.

Murder
File # 98/01-392
The applicant is the spouse of a victim murdered during the course of a robbery. Two persons were charged with Section 235 of the Criminal Code, and the accused were pending trial when the decision on compensation was made.

Spousal maintenance awards through the program are payable to a maximum of $1000.00 per month for a maximum of one year from the date of the crime. Calculation of spousal maintenance payments are based on the income of the deceased at the time of death.

The following compensation award was approved by the Director of Victims' Services:
(Payable to an approved counsellor through the Criminal Injuries Compensation Program)

Funeral Expenses	$4,600.00
Counselling Fees (Payable to an approved counsellor through the Criminal Injuries Compensation Program)	$1,000.00
Spousal Maintenance	$2,547.12
TOTAL	**$8,147.12**

VICTIMS' ASSISTANCE FUND

Revenue for the Victims' Assistance Fund is generated from a victim surcharge on fine and non-fine dispositions on both provincial statute and federal offences. The legislative authority for Victims' Assistance Fund and for the provincial victim surcharge is the *Victims' Rights and Services Act*. The surcharge is applied to all provincial offences with the exception of parking infractions and fines under the *Young Persons Summary Proceedings Act*. The federal authority for the victim surcharge is Section 737 of the *Criminal Code*. The federal surcharge is applied to offences under the *Criminal Code* or the *Controlled Drugs and Substances Act*.

Provincial victim surcharge is set by regulation as 15% on fine dispositions. There is no provincial surcharge on non-fine dispositions. The maximum federal surcharge permitted is 15% on fine dispositions or $10,000 on non-fine dispositions; however, lesser amounts may be prescribed by regulation. The regulations currently limit federal surcharge on non-fine dispositions to a flat $35. Imposition of both provincial and federal victim surcharge is mandatory unless the offender can establish to the satisfaction of the court that payment would result in undue hardship.

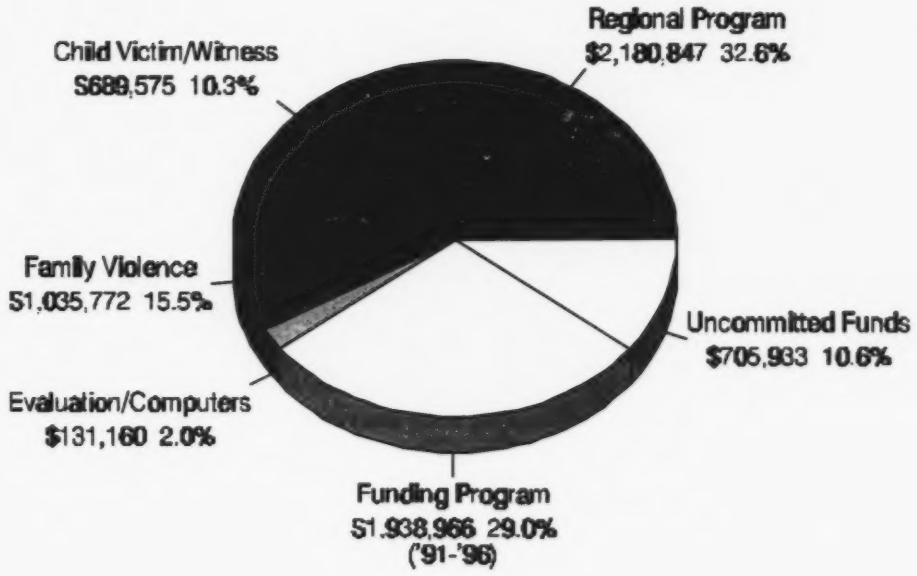
All victim surcharge collected is deposited in the Victims' Assistance Fund which is administered by the Director of the Victims' Services Division. The *Victims' Rights and Services Act* requires that the Fund be used for services, research and promotion of the rights of victims of crime. The *Act* specifies that the Fund cannot be used to provide direct compensation to individual victims. Approval of the Governor in Council is required for all expenditures from the Fund.

On an annual basis the Victims' Assistance Fund supports the Child Victim Witness Program and staffing for the Regional Victims' Services Offices. Surplus revenue, primarily generated in past years, has been used to support new initiatives such as the PRISO (Production of Records in Sexual Offences) Pilot Program and the Department's Framework For Action Against Family Violence. For example, $1,035,772 has been committed from the Fund for the Framework For Action Against Family Violence.

Total revenue and interest generated by the victim surcharge from the time it was initiated on August 1, 1989, until March 31, 1998, was $6,876,766.53. Disbursements and commitments from the Fund total $6,170,833.04. As of March 31, 1998, there was a total of $705,933.49 in uncommitted funds remaining in the Victims' Assistance Fund. **Chart 34** outlines the categories of expenditures from the Fund and illustrates how the fund has been used.

CHART 34

VICTIMS' ASSISTANCE FUND
EXPENDITURES & COMMITTMENTS
AUGUST 1, 1989 - MARCH 31, 1998



A dilemma faced by the Department of Justice in relation to funding services for victims of crime is the steady decrease in revenues generated through the victim surcharge. As illustrated in **Charts 35 and 36,** since 1992/93 when surcharge revenue peaked at $831,000, there has been a 22% decrease in annual surcharge collected. The amount of the decrease has become larger in each subsequent year. Last year surcharge collected totaled $650,404. That amount includes $67,158 in surcharge that was past due and was collected through the Fines Collection Project. If the amount collected through the Fines Collection Project is excluded, the decrease in general surcharge revenue collected last year as compared to '96/97 fiscal year was in excess of $112,000.

CHART 35

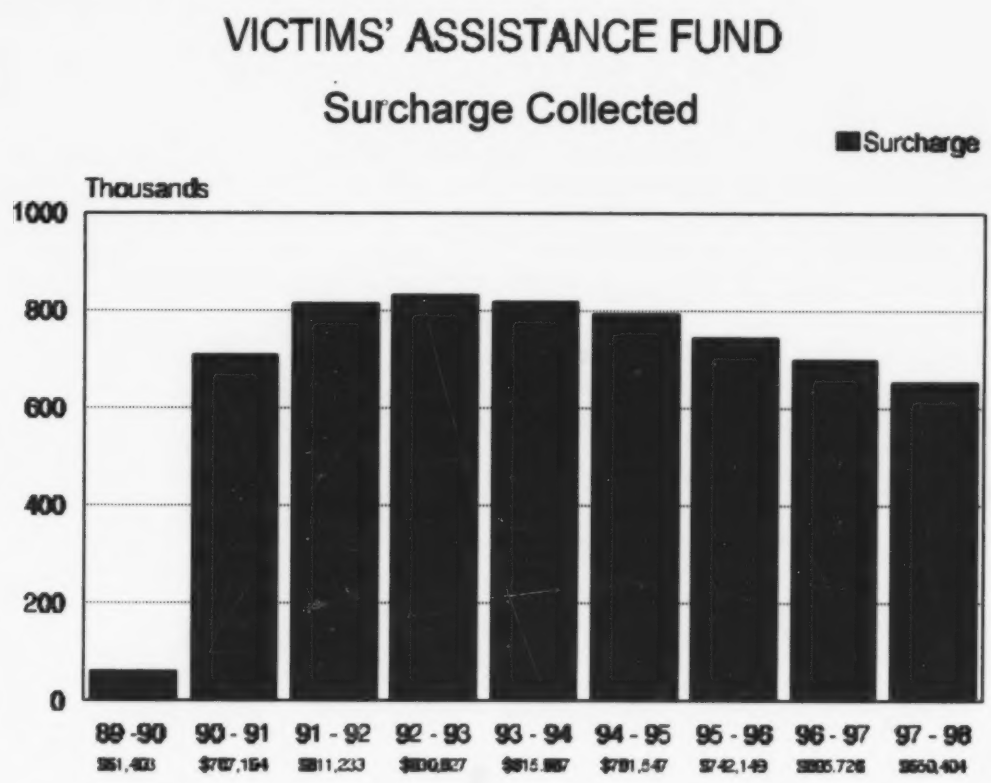


CHART 36

DECREASES IN SURCHARGE COLLECTED
(1992/93-1997/98)

Year	Surcharge Collected	Amount Decrease
1992/93	830,926.58	
1993/94	815,986.54	14,940.04
1994/95	791,546.93	24,439.61
1995/96	742,148.76	49,398.17
1996/97	695,726.28	46,422.48
1997/98	650,404.55	45,321.73

A preliminary analysis of the source of victim surcharge revenue was completed by the Victims' Services Division in March, 1998. Approximately 29% of total surcharge revenue is generated through the federal provisions. *Criminal Code* offences are the most significant factor in fines assessed on federal offences. A review of surcharge assessed by provincial courts between April 1 and December 31, 1997, revealed that an average of 9.59% victim surcharge had been imposed on *Criminal Code* offences and 6% on *Narcotics Control Act* offences. There was, however, a wide variation between courts. On *Criminal Code* offences, for example, the average surcharge assessed ranged from a low of 2% in one provincial court to a high of 14% in another. The reasons for this diversity require further analysis as they do not appear to be explainable due to economic differences between regions of the province.

The majority of provincial surcharge revenue results from motor vehicle and liquor control offences. While the number of charges laid in relation to those particular statutes is significantly down over the past three years, this has been somewhat offset by an increase in the fine imposed on speeding tickets. Between 92% and 95% of fines on provincial statutes assessed in the past three fiscal years are for offences under the *Motor Vehicle Act* and the *Liquor Control Act* and the victim surcharge imposed in relation to these offences is consistently in the range of 14% to 15%.

Examination of surcharge imposed for offences related to statutes that less frequently come before the courts, however, indicate that the percentage of victim fine surcharge imposed on these offences is significantly less than the mandatory 15%. The following chart illustrates some examples where surcharge revenue may be increased if the appropriate percentage of surcharge were imposed. (It should be noted however that the imposition of reduced, or no, victim fine surcharge may have resulted from the court making a determination of undue hardship for the offender.)

CHART 37

Legislation	Fine	Surcharge	% Surcharge
Petroleum Storage Reg (PTSR)	28,500	150	0.53%
Planning Act (PA)	5,130	15	0.29%
Occ. Health Safety (OHSA)	13,400	0	0.00%
Building Code Act (BCA)	13,800	150	1.09%
Construction Safety Act (CSA)	1,600	0	0.00%
Fish Reg – Prov (FRP)	3,000	143	4.75%
Revenue Act (RVA)	121,820	6,125	5.03%
Health Services Tax Act (HSTA)	5,000	0	0.00%
Wildlife Act (WLA)	73,850	6,985	09.46%

Currently, the amount of victim surcharge generated on an annual basis provides only a small surplus once annual commitments for existing core programs are covered. Historically, it is the surplus in the Victims' Assistance Fund that has been used for new initiatives. As the surplus is no longer being replenished, the ability of the Division to support new programs and initiatives is limited. If the trend toward decreasing surcharge revenues continues, existing programs may also be threatened.

There have been recent discussions on a national level about revising the federal surcharge provisions. As federal surcharge provisions have never generated the degree of revenue initially predicted, revisions are necessary in order to respond to the increasing demand for services to victims of crime.

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3 Murphy, C. (1991) *Victims' Needs and Services in Nova Scotia Research Project,* p. 53.

4 Canadian Resource Centre for Victims of Crime. (1997) *Balancing the Scales: The State of Victims' Rights in Canada,* p. 64.

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6. See "*An Evaluation of Victims' Services Division*", p. 70.

7. Burns, P. (1992) *Criminal Injuries Compensation*, Second Edition, Butterworths: Canada, p. 13.

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